

# TAKING CHARGE: THE REBIRTH OF LOCAL DEMOCRACY



COMMISSION FOR LOCAL DEMOCRACY

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Ian Sim

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and Owen Davies

David Clark was Secretary to the Company.

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# FOREWORD

## TAKING CHARGE: THE REBIRTH OF LOCAL DEMOCRACY

The Commission for Local Democracy is an independent body. It was launched on 10 November 1993 and presented its final report in June 1995. Our task has been to enquire into the present state of local democracy in England and Wales and to consider its future. We were particularly charged to investigate its definition and purpose; its institutional structure; other bodies performing local administration; new forms of democratic participation; and lessons from other countries.

Our first chairman was the broadcaster, Brian Redhead. He was instrumental in establishing the organisation and brought intellectual rigour and enthusiasm to our early work. He was an inspirational leader with a deep respect for the institutions of government outside the metropolis. His death in January 1994 was a sad loss. This report is in part a monument to Brian's commitment to local democracy and to his belief in the rights of communities to govern their own lives. The report is also by way of tribute to Kieron Walsh. He was with us for the duration of the Commission's deliberations but died this May. Our efforts were made easier by his ability and wit.

Our work was divided into two parts. First, we commissioned research into aspects of local democracy not already covered by existing work or where that work was so detailed or diffused as to merit bringing together in one publication. Second, we prepared this final report with a summary of our recommendations. The research phase had led to the publication of sixteen research papers over the past two years, listed in *Appendix I*, and we much appreciate the contribution of all who worked on them. Local government studies is now a burgeoning field of scholarship and is important to the revival of interest in local democracy. We hope we have done something to advance its cause. *Appendices II and III* list the other published material on which we have been able to draw. We are most grateful to all those who have submitted evidence and assisted us.

We decided at the outset to address local democracy in England and Wales. This was because the legal framework for local government in Scotland and Northern Ireland are at present quite distinct. They perhaps merit reports of their own. Nevertheless the Commission believes the great bulk of our analysis applies to Scotland as well as England and Wales.

Our research programme and final report should be seen as the combined product of our work. The report itself has been kept as short and accessible as this not always easy subject allows. The Commission has led to a wide collaboration by people in universities, research institutes, the media and local government itself. The Commission members reflect the diversity of our enquiry and included academics, former public servants and former leaders of all three main parties in local government. While we came to the subject from widely differing starting points, we have reached conclusions that are

## FOREWORD

unanimous. Nothing but radical change can halt the drain of democratic activity from British local government, and therefore from British politics itself. We hope that both our research and our report will be a witness to that conclusion.

*Simon Jenkins,*

*June 1995*

### **COMMISSION MEMBERS**

#### ***Simon Jenkins Chairman***

Simon Jenkins is a newspaper columnist and author. He is a former Editor of *The Times* and the *London Evening Standard*. He became the chair of the Commission in April 1994. He is also a member of the Millennium Commission.

***Roger Jeffries:*** Former Chief Executive of the London Borough of Croydon and now the Housing Association Tenants' Ombudsman. Under an exchange arrangement he was Under-Secretary in the Planning and Land Use Directorate of the Department of the Environment. He is the Commission's Honorary Secretary.

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The Commission also wishes to thank Ms Sally Witcher, Director of the Child Poverty Action Group, who was a member for our first year and Ms Judi Clements National Director and Chief Executive of MIND (National Association for Mental Health) who replaced her for a further six months.

The Commission wishes to thank our Director David Clark and his Executive Assistant, Julia Fox for their tireless support. They ran an admirable office and the unanimity of our findings was in large measure due to their efficiency and good humour. The project was backed by Unity Trust Bank, the Municipal Journal and, in particular, Nalgo/Unison without whose initiative it could not have been completed.

## CHAPTER ONE

# INTRODUCTION

The title, Commission for Local Democracy, was chosen to give this report a wide remit. We are not concerned solely with existing local government, with local authorities, members, boundaries and functions. We also examine the rationale for all democratic activity at a sub-national level. This has involved examining the many ways, not merely electoral, by which citizens participate in their system of government. The British people have long considered themselves free by history, inclination and temperament. But they have always placed democracy at the heart of that freedom. They see this democracy as involving individual rights, freedom of association, assembly and speech; the establishment of institutions of legislation and deliberation; and the popular selection of executive government. Democratic politics requires citizens to be alert, not dormant, in the exercise of these rights and in calling their elected representatives to account.

- 2 The reason for the establishment of the Commission was a fear on the part of many in local and national politics that an element in the democratic mix - the local element - has withered and is in danger of disappearing. British politics has become too exclusively national. Political activity, media attention, the power of the Treasury and the central organs of government, have become more concentrated in London. The standardisation of services and the centralisation of public policy has removed diversity and conflict from local administration. It is as if the British people had become afraid of politics.
- 3 We believe, as will emerge in the course of this report, that no thriving democracy confines democratic activity to a single national tier of government. Political theorists have long stressed local democracy both as the natural forum of citizenship and as a check on central power. In recent years, countries of Europe and North America have been forced to respond to local and regional pressure for decentralisation. Britain has been alone in proceeding down a strongly centralist path, not only under the current government but under most governments since the war.
- 4 We find this development alarming and the case for reasserting local democracy overwhelming. Local administration delegated by ministers cannot adequately reflect local diversity or encourage active citizenship. Nor can citizenship be equated with public services traded as consumption goods in the market place. Individual choice of privatised services is no substitute for collective influence over the conduct of those services. Nor is a ministry accountable only to Parliament a substitute for representatives answerable to local people.

- 1.5** We do not believe that the present state of local government in Britain can be improved merely by tinkering with the relationship between the centre and localities. This relationship is deeply flawed, its flaws contributing directly to the emasculation of local democracy since the war. This has diminished turnout at elections; made local councils less representative of their communities; reduced the local taxation base; and eased the removal of discretion and power from local democracy to unelected agencies. Local government has itself been weak in remedying its own defects.
- 1.6** We considered whether to adopt a piecemeal or radical approach. On the one hand we were hesitant about proposing drastic changes to a structure that has been pummelled by change in recent years. British local government is suffering from reform fatigue, certainly as far as finance and boundaries are concerned. It has grown used to seeing change as a centralist ratchet. On the other hand, we must advocate whatever is most likely to promote the remit of our title: local democracy. In general we have avoided radical proposals for local taxes and boundaries. This is not only because they have been recently the subject of change, but also because we feel there is no strong case for further change to them. We have been more radical on the internal structure of local government, the relationship between localities and the centre and the nature of citizenship at local level. Here lies the key to a revived local democracy and here we have concentrated our attention.

## CHAPTER TWO

**THE CASE FOR LOCAL DEMOCRACY**

We believe that it is through the institution of democracy that political activity can take place most productively and in an orderly way. Politics is the essential activity of free people in the resolution of conflicts of interest, the disposition of power, and the pursuit of solutions. Politics involves compromise, persuasion, imagination and judgement. Democratic politics presupposes that we are social creatures, living lives that are interdependent. We are rational agents in wanting to influence our social environment rather than just react to it. We are reasonable judges of our own best interests.

<sup>29</sup> Democracy implies a commitment to collective decision-making. Local government is not just a matter of delivering services to the public, it is about making choices for a locality. These choices have a collective character and cannot be reduced to the individualised preferences of consumers. Deciding priorities between services, expressing the concerns of a community and meeting the social and economic challenges of modern society require collective debate, deliberation and decision. These political processes are enriched and made more valid by the varied practices of democracy, both representative and participatory. The legitimacy of local government should rest on the health of its democratic activity not on the status of its leaders or the expertise of its paid officials.

To some, the democratic requirement is met where a country ensures open debate of national issues, elects members to a national assembly and holds those members to account. Critics of local democracy add that supranational government is becoming so powerful that sub-national government is a distraction. In Britain's case, Europe is acquiring more sovereignty. Parliament is the subsidiary institution. The nation state must march as one if its European interests are to be protected. In addition, sub-national administration requires such economies of scale that local diversity is inefficient. The public expects a national standard in crime prevention, education, health care, welfare and housing and will not allow government to permit the wider divergences of local autonomy. All this is said to militate against local autonomy.

Our answer is simple. It is that the prime requirement for good government is that it be democratic, not that it be efficient. Dictatorships can be efficient, for a time. When de Tocqueville wrestled with the internal contradictions of democracy and of dictatorship, he was convinced that the former could avoid sliding towards the latter only by ensuring a vigorous, participating citizenship. His heart of democracy lay in the

"habit of association". Unless that habit was kept in constant repair, democracy would wither and dictatorship beckon. Nor was it realistic to imagine that the mass of citizens would be able to exercise this habit at the level of national politics. That view was an elitist one. Local activity was vital if democracy was to have meaning. This philosophy underpinned the entrenchment of states' rights in America, the preservation of city autonomy in modern Italy and the establishment of strong Land governments in post-war Germany. In each case, local government was seen as defending democracy against overbearing central power. Subsidiarity, currently fashionable in defining the rights of nation states against supranational treaties, has long underpinned the rights of local authorities.

- 2.5 Most defenders of local democracy would also protest that it is more efficient than centralised systems, rather than less. The imposition of national standards rarely yields the most economic allocation of resources. Decisions are best when taken closest to those to whom they apply. They are also best when those taking them must answer for them to their electors, and answer with their jobs. Even in modern Britain, our research shows that local government still embraces the majority of democratic participation. More people consult local councillors than Members of Parliament. ("Political Participation and Democracy in Britain." Parry, Moyser and Day quoted in CLD Research Report No 2) They expect local services to be responsive to their expressed wishes, even if this leads to differing standards of service across the country.
- 2.6 A vigorous local democracy is a counterweight to central government. The history of the police service in Britain is of a local constabulary locally accountable, not under the command of the central state. The early Victorians saw this as vital to avoid the development of a "state police", answerable not to the communities being policed but to the wishes of central authority. Newly democratic countries of Eastern Europe, Africa and South America have all made the establishment of entrenched local democracy part of their constitution-building. Central government is not a diminishing phenomenon. Despite the efforts of parties of the right, "big government" has been unable to shrink in size or power. The share of national resources that government accumulates has risen steadily. In Britain it was 44 per cent of gross domestic product at the time of the Thatcher government taking power in 1979. It is the same proportion today (HM Treasury Financial Statement, Jan 1995, table 4A.8). Checks on government must exist. Local government is the most obvious, potentially vigorous, democratic and accountable check.
- 2.7 We believe that all these arguments define a role for local democracy in a free nation. While global or national issues may require global or national action, local issues are for local decision. The centre cannot control everything nor impose uniform standards

on everyone. A modern nation state must share a common constitution and a common economic and social framework. There must be an agreed basis for revenue sharing and redistribution. But a national body of elected representatives cannot scrutinise local administration with the rigour demanded by an alert democracy.

While every nation has a distinct way of honouring this devolution, all share features in common. These include local elected assemblies, elected or appointed leaders, some basis of local taxation and some constitutional relationship with regional and national tiers of government. In most countries the local executive under a mayor is distinct from the assembly of councillors. In most there is more than one sub-national tier, with the equivalent of Britain's parishes often enjoying considerable local discretion. Rarely are periodic elections considered sufficient for the exercise of democratic rights. Petitions, referendums, public meetings and ad hoc forms of association all play a part in local democracy. We believe all should do so in Britain.

Our concern is now to examine how far local government in England and Wales falls short of these democratic standards, before considering remedies.

## CHAPTER THREE

# DEMOCRACY ATROPHIES

### FINANCE

- 3.1 Since the IMF crisis of 1976 a fundamental change has taken place in the power balance between local government and the centre in Britain. This took the form of a steady restriction on the freedom to spend money, whether raised locally or contributed by the central Exchequer. There have been fourteen Acts of Parliament altering the financial basis of local government since 1976. The effect has extended far beyond the raising of money. It has permeated every aspect of centre-local relations.
- 3.2 The government has sought both to limit local government's call on central funds and to limit its overall spending. The voluntary regime worked well until the mid-1980s, with local spending lagging behind central. Political attention focused on a few overspending city authorities distracted attention from the generality of local spending, which was held in check. The advent of targets, penalties, rate-capping and finally the poll tax changed this, with drastic consequences for local democratic accountability.
- 3.3 The poll tax or community charge, which briefly replaced domestic and business property rates in 1989-90, was seen by government less as a local democratic tax, more as a charge for local services. It would rise or fall depending not on democratic choice but on the efficiency with which a council conducted its business. Though introduced as an aid to accountability, the capping of spending denied this. Responsibility for tax levels was widely attributed not to local representatives but to central ministers. The latter accordingly subsidised poll tax heavily from central taxes. Its replacement by a property-based council tax ended its unpopularity, but did not restore the lost accountability. In the mid-1980s, 60 per cent of local expenditure was covered by locally determined taxes. Today that figure has declined to under 20 per cent, the burden being initially met by an increase in VAT.
- 3.4 Central to this loss of accountability has been a phenomenon known as the Standard Spending Assessment, linked to the block grant that each local authority now receives from central government. These SSAs are central government's calculation of what local authorities ought to be spending, given the character of their population and geography. Since they determine so large a part of local budgets - each grant broken down into functional blocks for police, education, housing - local authorities have less and less discretion over how to allocate their budgets. They are increasingly agents for central government. Since council tax covers barely 20 per cent of local spending, its capacity in future to raise accountable revenue is likely to be limited unless government is prepared to allow such taxes to rise considerably.

- .5 The ending of local decisions on the business rate has had the effect of removing a link between local government and the business community. This removal was exacerbated by the institution of Urban Development Corporations, created by the Local Government, Planning and Land Act 1980 from which local democratic representation was excluded. This ran counter to most urban renewal practice on the Continent and in North America, which was based on close partnership between elected local government and business. The winding down of the UDCs is permitting some re-assertion of this partnership.

## FUNCTIONS

- .6 The government no longer sees local authorities as the prime developers of public or social housing. This role has passed to the Housing Corporation acting through housing associations. Over a fifth of the national housing stock has also passed to private owners under "right-to-buy". Tenants are also encouraged to leave local authority management by voting to transfer their estates to alternative management. The government's goal is eventually to shift all public housing out of the hands of local democratic control.
- .7 The same shift was, at least until recently, official government policy for the education service. Responsibility for post-16 education, whether in sixth-form colleges or further education colleges was removed from local government in the early 1990s. With it went any right of representation of local councillors on governing bodies. Under the 1988 Education Act, all primary and secondary schools were invited to opt out of local authority control. The Education Act 1993 established a Funding Agency for Schools under the Secretary of State, with the eventual aim of ending local education administration altogether. This aim appears recently to have weakened as opting out has diminished.
- .8 Local authority representation has also been removed or diminished in the delivery of a wide range of services once considered the domain of local democracy. Health authorities no longer need have local councillors as serving members. During the passage of the Police and Magistrates Court Act 1994 the government tried further to reduce the locally elected element on police authorities. Training and enterprise councils do not have democratically elected members. Utilities such as ports, buses, airports and water supply have all been progressively removed from locally elected control and either privatised or put into companies with a view to privatisation at a later stage.

- 3.9 In the case of direct delivery of services, the government insisted on compulsory competitive tendering. This has contributed to the reduction of the local government direct labour force (from 1.83 million to 1.59 million over ten years), and also the status of local councils as local employers. (Local Government Management Board Quarterly Joint Staffing Watch.) The government sees the public sector in general as a service purchaser on the public's behalf, not necessarily a service provider. The aim being to make more transparent the specification and standards of service offered and to increase efficiency and value for money.
- 3.10 There has been a steady attrition in the number of locally elected councils in England and Wales. In the case of the metropolitan counties and the Greater London Council, all abolished by the 1985 Local Government Act, no fewer than seven elected bodies were wiped out and 693 councillors lost their jobs. The recent reorganisation of local government boundaries has led to a reduction in the number of districts and the establishment of many unitary authorities in place of two-tier structures. The ratio of councillors to public in Britain is now extraordinarily high at 1:1,800 on average. This compares to an average ratio of other western nations of between 1:250 and 1:450. In France the ratio is roughly one elected politician to 110 inhabitants. The ratio in Sweden is 1: 270 and in Japan it is 1:1,550. On this definition, Britain is one of the least democratic democracies in the world. The "democratic deficit" in local government, has grown in the past two decades.

### **QUANGOS**

- 3.11 This deficit has not gone wholly unfilled. Over 5,000 executive agencies outside the direct purview of government departments have been identified, popularly called quangos. Estimates (Paul Hoggett in CLD Research Report No 10) put their spending at roughly a third of public expenditure, which has overtaken the total administered by local government. In England alone some 50,000 appointed people serve on them, as against some 20,000 councillors. Their responsibilities embrace health and hospitals, training, urban development, secondary and further education and transport.
- 3.12 The government points out that these bodies are answerable through ministers to Parliament. They say that they have brought into public life thousands of citizens deterred by the exigencies of party politics from serving on local councils. Many serve without remuneration and bring to the work of government experience not available otherwise. Their financial and performance targets are public and open to scrutiny. They are as much part of "local democracy" as elected councillors. Submissions to the commission by many quangos emphasise these points and we are aware of them.

13 Our research questions whether quangos can in any sense replace local democratic activity. It is the case that quango appointees appear to be similar in background, age and experience to the councillors many of them replaced. The same percentage are under 45 and the same are female (roughly a quarter). But most quangos operate less openly than do most local authorities. They often meet in secret and are subject to few publicity requirements. Criteria for appointment are vague or non-existent. There is no provision for surcharge, nor are most of them subject to overt parliamentary scrutiny: there are too many of them and their work too local for the House of Commons to monitor in any meaningful way.

14 We are satisfied that despite efforts made to devolve some of the administration of public services to lower tiers of government, for instance under the National Health Service and Community Care Act 1989, there has been a substantial shift from local to national democratic accountability. All our research has shown a movement out of local government into regional, agency and quango government. This has paralleled the similar shift in control over money. No serious authority that has given evidence to us questions this observation.

## LOCAL ACCOUNTABILITY

15 The internal workings of local government have undergone a less drastic but none the less marked shift. The insistence on competitive tendering and the emphasis on the citizen as customer have changed the accountability functions of the council and its members. They are seen less as a reflecting mirror for local opinion, more as service managers. Performance is judged less on the basis of whether a service meets the professed needs of a particular community, more on whether it conforms to a national set standard. The growth of league tables for schools, hospitals and police forces, is one indicator of this trend.

16 This has gone hand in hand with a change in other forms of local accountability. The recommendations of the Widdicombe Inquiry were enacted in Part 1 of the Local Government and Housing Act 1989, including a prohibition on certain officers becoming members of another local authority. There should be a proportionality between political parties on committees. In addition the roles of officers were to be more clearly defined for the purposes of audit. The latter activity was extended to embrace value for money. There has been a wider use of judicial review against council decisions, for instance on planning. On all matters the use of judicial review has grown massively during the last twenty years. Leave for review was sought 160 times in 1974. By 1993 this had grown to 2,886 cases. ("Judge Over Your Shoulder - Judicial Review: Balancing the Scales." Cabinet Office 1994.) The growth of Citizens' Charters

nationally has been paralleled locally. Councils are compelled to publish performance statistics against national norms. Greater concern is shown for the citizen as customer. Complaints procedures are more sophisticated. A local government Ombudsman has been in place since 1974, though his rulings are not enforceable.

### **DEMOCRATIC ACTIVITY**

**3.17** In our view the most serious democratic weakness of British local government is the low turnout at elections. This diminishes the legitimacy of local councils and weakens the mandates of ruling majority parties. It has undoubtedly reinforced the confidence of central government in reducing local powers on the grounds that local authorities lack Parliament's democratic authenticity. Britain's poor record on local turnout lags well behind other countries in the European community. One reason must be the extraordinarily large constituencies in British local government, distancing governors from governed.

#### **Indicative Turnout in recent Sub-National Elections in EC Countries**

<b>E C Country</b>	<b>Mean %</b>
Luxembourg	93
Italy	85
Belgium	80
Denmark	80
Germany	72
France	68
Spain	64
Ireland	62
Portugal	60
Netherlands	54
Great Britain	40

Source : European sub-national database Plymouth.

**3.18** Evidence on voting behaviour in Britain (CLD Research Report No 1) notes the following features:

- \* Over half of registered electors are not voting.
- \* There are few serial abstainers. Only about 1% of electors never vote at all.

- \* Only three groups have above-average non-voting levels: the residentially mobile (particularly students), private tenants and the young.
  - \* Voting is strongest where party organisation is most active and in marginal wards. Council tenants are more likely to vote than owner-occupiers.
  - \* Other factors which may affect voter habit include the walking distance to a polling station and whether the vote is likely to affect the outcome: in some authorities with entrenched majorities turnout can be very low, particularly where some seats are uncontested. A well-publicised political contest is likely to secure better turnout.
  - \* Results since 1973 suggest that turnout has risen slightly, is above average when general elections are perceived to be imminent, and falls away significantly in the aftermath of a general election. In London boroughs (four yearly elections) turnout rose from 36.4% in 1974 to 48.1% in 1990 and fell to 46.0% in 1994. In the metropolitan boroughs it reached a high of 46.2% in 1990, was 32.5% in 1992 and 38.9% in 1994.
  - \* In shire districts turnout was 38.6% in 1973, reached a high of 48.6% in 1990, was 36.8% in 1992, and 42.6% in 1994. In the counties turnout reached 43.7% in 1981, fell to 39.2% in 1989, and fell again to 37.2% in 1993.
- 99 In Europe it appears that countries which use a system of proportional representation in voting at local elections secure a higher turnout. Britain appears to get none of these advantages of proportional representation, while experiencing precisely the uncertain "coalition government" on local councils so deplored by opponents of such electoral reform. Rallings and Thrasher pointed out in research conducted for the Electoral Reform Society in 1991 that the English and Welsh counties and districts show little correlation between the parties in power and the party preference of their voters. In Plymouth in 1987 the Conservatives won an absolute majority on the council with just 38% of the vote. In the London Borough of Islington in 1990 Labour polled 48.9% of the vote and won all but three of the seats. In the London Borough of Richmond in the same election the Liberal Democrats won 92% of the seats with 46.4% of the votes.
- 20 Rallings and Thrasher also point out that there is a wide variety in the size of electoral wards. In London in 1986 some three-member wards had electorates of 13,233 while others had electorates of just 4,419. In shire districts some rural wards had as few as 279 electors whereas urban authorities had up to 6,191 electors still in single-member wards. Such gross disparities do mean that some votes are more equal than others. We return to this inequality in Chapter Five.

3.21 The effect of this voting is to leave perpetual minorities unable either to vote their party into power or even obtain a fair hearing on their council. By the same token accountability is diminished when entrenched parties know they will enjoy a permanent majority on the council regardless of the quality of services they deliver. This produces complacency by the ruling group, disillusionment for the under-represented and apathy among the electorate.

### THE WORK OF THE COUNCILLOR

3.22 Councillors in England and Wales are expected to work part-time and with the minimum of reward. The workload limits the range of people willing to undertake the task. Councillors appear to be drawn from a narrow cross-section of the community. According to a survey undertaken in 1993 only 25 per cent are women, nearly 80 per cent are over 45 years old, and a third are retired. ("Coming to Terms with Change: The Local Government Councillor in 1993." Joseph Rowntree 1994). Evidence put to the Commission suggests that councillors devote a significant amount of their free time to council duties, but nowadays serve for shorter periods than when earlier surveys were conducted. One in four councillors has less than three years experience. There is considerable turnover at each election: over 50% in London boroughs (1978-1990), 40% in English counties (1981-1993), and in shire districts (1986-1991) 40-47%. The voluntary turnover rate is considerably more than for the House of Commons.

3.23 A significant proportion of retiring councillors are now in the 35-44 age group and each has served just one term of office. Party groups report a diminishing enthusiasm of candidates to come forward to stand at elections. As a result they are less likely to be representative of the population: overwhelmingly male, middle-aged and in white-collar occupations, more likely to be married and to be owner-occupiers than the average. Councillors were also more likely to be in professional or managerial rather than manual worker occupations.

### PUBLIC CONFIDENCE

3.24 Surveys reported to the Commission suggest that local authorities score a much lower percentage of consumer satisfaction rate than other consumer services, but satisfaction with individual council services tends to be high. It appears to be the council as an institution and not the services it supplies that is mistrusted. A survey published in 1994 by Taylor, Nelson AGB Publications entitled "Public Awareness and Attitudes to Local Authorities and their Services" records a high level of satisfaction with refuse collection, libraries, street lighting, schools and leisure facilities, but much less with some others such as council house repairs and maintenance and road maintenance.

- However, services provided by non-local authority organisations, such as telephones, local electricity, local buses and British Rail scored more highly than several other important local authority services and than county and district councils as such. Nearly 60% of the adults questioned agreed with the proposition that local authorities are too remote and impersonal.
- 5 Most available research suggests that a citizen's knowledge of the organisation of services at local level has always been limited. Recent surveys of local residents conducted by MORI for local authorities reveal a similar picture. Between a quarter and a half of all respondents were unable to identify whether district or county councils had responsibility for Social Services - though this may be because few have direct experience of them.
- 6 A further survey by ICM in March 1994 for Channel 4 (reported in CLD Research Report No 10 Feb 1995) concerned public perception of democracy in the UK and the nature of local accountability. The majority of respondents considered Britain to be fairly democratic but only 12% felt that it was becoming more so. 39% felt that it was becoming less so. A clear majority (60%) felt that voting once every four or five years was an insufficient basis for democracy. A substantial majority (78%) wanted either more or much more power between elections. At the local level support for the elective principle was strong, though this did not necessarily imply support for existing local authorities. In only one service, public housing, was there a clear majority favouring council control. The survey found that almost one in three respondents felt that health services should be made the responsibility of local councils but nearly two in every five interviewed felt that health should be run either by directly elected local committees or by committees partly elected and partly appointed.
- 7 On the public perception of the honesty of local authorities, the Commission has seen a survey commissioned by Public Concern at Work in September 1993. 63% of those questioned were concerned about fraud and corruption in local government. Asked about the source of their concern a large percentage mentioned the media and local hearsay. Only a small number claimed they had direct experience of fraud or corruption in local government. Of those, about one quarter said their concern was based on their working in, or with, local government.
- 8 This suggests a lack of confidence in local authorities which the facts do not bear out. The Audit Commission's own report "Protecting the Public Purse" also published in 1993 suggests that probity is generally in good order. The bulk of fraudulent transactions were accounted for by the abuse of the benefits, grants and awards systems by claimants. In the previous three years only 143 cases of other kinds of corruption

had been proven sufficiently to take legal action. The Audit Commission nevertheless believes that the number of incidents and complaints of fraud and corruption are rising. Lack of public confidence in the probity of local authorities must undermine local democracy. Councils must clearly bear some blame for that public perception. We believe that the way local authorities carry out their business - the processes of local democracy - may carry some responsibility.

- 3.29 The public's attitude is shared by Whitehall. Research for the Commission suggests that local authorities, their members and officers are not well regarded by the civil service (CLD Research Report No 5). Local government is seen by the centre as lacking constitutional coherence. It is seen as having developed ad hoc within British government, its significance rising over the past century as accidentally as it is now falling. There is little consensus among civil servants and politicians nationally about the appropriate functions for local authorities and there is no agreement about their future role. While some concern is apparently felt about the rise of quangos, and about the capping regime, local government is seen primarily as a deliverer of centrally determined services and not as part of the nation's democratic life. Our research demonstrates a reluctance of those in central government to think in constitutional terms.

### POLITICAL PARTIES

- 3.30 Competing parties play an essential part in the operation of democracy. They identify issues, define programmes, choose candidates and campaign for election. There is close correlation in Britain between the main players in political parties locally and the machinery established locally by those same parties to secure the election of MPs and MEPs. Any examination of the state of local democracy must embrace this machinery and its participants.

- 3.31 Research for the Commission shows both similarities and differences between the three main parties (CLD Research Report No 11). They all exercise varying degrees of local party discipline. Some have found the chief innovation of local government in the 1980s, the "hung council", a disturbing experience. Hung councils force the parties into coalitions and create tensions between the aspirations of local members and those of their national parties. There is a widespread feeling that parties are "too strong" in local government. This makes it hard for minority candidates to secure election. Local issues are presented in "take it or leave it" terms, which impedes coherent debate or the emergence of a consensus. In addition, the identification of local with national parties gives local elections the role of mid-term referendums on national party fortunes. This strips local elections of local accountability and distorts the purpose of local democracy. On the whole, local elections have gone against the majority party in

Parliament. Local authorities have thus a built-in oppositional character which further undermines relations with the centre.

3.2 We nonetheless believe that there is a danger of the above developments being overstated. Party activity and rivalry stimulate public interest, clarify options and promote debate. Party organisations find candidates for office, support election campaigns and help train new members. Collective party responsibility supplies government discipline and focuses on overall council performance. For the defects of party politics in local government to be reduced, more drastic measures than merely deplored them must be considered. We return to this theme in Chapter Four.

3.3 The party political character of much local government does undoubtedly drive many local councils into the same devices complained of in the case of quangos. Business is often predecided behind closed doors in caucus meetings. The council and committee chambers become little more than a political theatre where decisions are given formal effect. The position of council "Leader" as leader of the majority group is bestowed not by the electorate but by the majority group itself. The role of Leader, his or her authority and relationship with colleagues, are all matters for the internal operation of the party. As a councillor, the Leader is in law no different from other councillors. Again this diminishes the clarity of accountability at which reform should be aimed.

## **MANAGING FOR DEMOCRACY**

3.4 The management of local council business can either enhance or hamper democracy. In recent decades powerful criticisms have been made of the 19th-century committee system - rehearsed by Maud in 1967 and summarised by Widdicombe in 1986. A council's committees take decisions on behalf of the council as a whole without any separate source of executive authority. The absence of a strong executive, mayor or minister, obscures both the responsibility of the executive and the role of the opposition in subjecting the majority to proper scrutiny. The involvement of large numbers of councillors on committee work gives them a sense of involvement, but it can seriously impede the speed of decision-making. Meetings of elected members can be over-concerned with detailed management rather than strategic issues. Collective "ministerial" responsibility comes to rest with the party organisation rather than the administration as such.

3.5 The way in which councillors use their time was criticised by the Audit Commission in 1990 in "We Can't Go on Meeting Like This". The demands were becoming heavier and the manner of working did not reflect the change in the nature of council activity from service providing to service purchasing. The government issued a consultative

paper in 1991 on "The Internal Management of Local Authorities in England" canvassing improvements. The paper provided a number of options: an adaptation of the present committee system; a cabinet system; the appointment of a council manager as head of the executive function; direct election of a separate executive; or direct election of a mayor to take over the council's executive responsibilities.

- 3.36 These possibilities were further debated in a Department of Environment working party report of 1993, "Community Leadership and Representation: Unlocking the Potential". This proposed that the government should take powers to allow a number of experiments proposed by individual local authorities, including the replacement of the committee system. The majority of responses wanted to adapt the committee system, though there was minority support for a cabinet system. There was virtually no support for a directly elected executive or directly elected Mayor. The Commission concludes that while there is generalised support for more streamlined decision-making in the abstract, there is little apparent support for radical change.
- 3.37 Most councillors are conservative in attitude. In "Local Leadership and Decision Making" published in 1994, Nirmala Rao reports on a survey of attitudes to change from a large sample of councillors in fifty-three local authorities. 84% preferred to continue with the present system (where formal authority resides in the whole of the council), 13% favoured a more streamlined system (responsibility passing to a smaller group of councillors) and only 2% supported the creation of a separately elected Mayor or equivalent. These results were recorded even though a number also record frustration from the existing delays and inability to get things done. The resistance to change appears to be generated by fear of loss of influence over strategic policy for ordinary members: an exclusively representative role is unattractive to them. As Ms Rao notes "Councillors need, it seems, to be seen to be doing something." In their individual evidence to the Commission, many complained about the anti-democratic nature of central government and about quangos. Yet they showed little inclination to examine their own activities. The preferred solution was that if only councils could take back control of a wide range of "stolen" activities, local democracy would also return. Local government itself is as reluctant to reform itself as it is resistant to reform from outside.
- 3.38 We have concluded that the present system of local government in Britain is seriously inadequate to meet the requirements of a mature democracy. It obscures and distorts what should be open and lively political activity for the majority of citizens and it fails to supply clear lines of local accountability. The system encourages political parties to continue private informal management of councils and grants them inordinate power. The basis of local administration is both secretive in itself and confusing for the bulk of local people. From that confusion arises apathy and cynicism towards local

democracy. We are aware that those committed to local government as presently constituted may feel this an unfair or excessively gloomy view. If so, they are being their own worst enemies. They are sitting targets for central government scepticism. We are convinced that herein lies much of the trouble with existing local democracy.

## THE EUROPEAN UNION

- 9 The European union poses a challenge to local democracy. The risk is of the removal of yet more local discretion not only from the local but also from the national level, and of a further push to standardisation. British local authorities are currently in a weaker position in Brussels than representatives of local and regional administrations from countries such as Spain, France, Italy, Scandinavia and Germany, many of which possess both constitutional guarantees and powers of general competence. For better or worse, the European Union is now a substantial source of resources for local development, especially in the industrially depressed parts of the United Kingdom.
- 10 The new Committee of the Regions, whose 24 United Kingdom councillors are nominated by central government, does have the potential to contribute to the democratisation of the Union. The Committee brings local representatives inside the policy process of the Union. It also gives local democracy a legitimate status on the European scene, independent of national governments. Measures to strengthen local democracy in Britain will bolster the legitimacy of local democratic institutions throughout Europe. What is most marked from an examination of local government throughout in Europe is that other countries see this opportunity. Britain does not.

## CHAPTER FOUR

# BUILDING AFRESH

- 4.1** Local democracy is a necessary component of national democracy. Decentralised outposts of central government, quangos and subcontracted services are not enough. There must be representative institutions rooted in the geography of Britain with which citizens can identify and to which they feel loyalty and personal commitment, however intermittent. Such local democracy is now in retreat and must be rallied. This is the message of our report so far. How to do it?
- 4.2** Local governments in most Western democracies tend to have three components:
- (1) an elected ASSEMBLY or council chosen in free elections;
  - (2) an EXECUTIVE group, composed of elected or appointed persons, that takes public responsibility for decisions and service delivery;
  - (3) a permanent STAFF to whom the assembly and/or the executive delegates most of its work.
- In Britain the first and second components are constitutionally fused. We suggested in the last chapter that this leads to public confusion, secrecy and inefficiency.
- 4.3** We believe that revitalising local democracy demands that the ASSEMBLY and the EXECUTIVE be separated. They should be clearly distinguished in the public mind, and the Executive should derive its own democratic legitimacy at the ballot box. We propose that both the Assembly (referred to as the Council) and the elected Executive (referred to as the Leader or in towns and cities, the Mayor) would be elected for three years. The Leader/Mayor would be able to stand for only two full terms. In the present system the powers and functions of a local authority are vested in 'the Council' and the term describes both the Assembly and the corporate body. We propose that the corporate body should in future be 'the local authority' consisting of the directly elected Executive AND the directly elected Council. The Executive would comprise both the elected Leader/Mayor and the local authority staff.
- 4.4** This proposal is designed to attack head-on the central weaknesses of local government in Britain. These we have identified as low turnout at elections; citizen ignorance of local politics and leadership; the gap between formal and informal accountability for decisions; excessive party involvement in local elections; too much councillor time spent on management, not enough on representation and scrutiny. Evidence from

other countries suggests that the direct election of a local Leader/Mayor ameliorates each of these weaknesses. Citizen participation in local politics is higher. Numbers standing for public office are higher. Recognition of local leadership is higher. Public satisfaction in local government and its services is higher. Since remedying precisely these flaws in the British system is our goal we cannot ignore the factor that appears to bear so directly upon them.

## THE COUNCIL

- 55 The role of democratic assemblies is to be a link between the government and the governed. Our proposed new local Council brings local representative democracy into the 21st century. Its members would be elected for multi-member wards by a system of proportional representation (see Chapter Five). Meetings would be open to the public and might include a question time from members of the public, either in public forum or electronically. The Council's function would be to discuss, approve and scrutinise the Executive. The Council would not be part of the Executive, though the elected Leader/Mayor might and often would be of the same party as the Council majority. Members would act as guarantors of openness and the fair representation of their ward and parish interests. The Councillor would act as politician, representative and advocate, but not executive.
- 56 We believe that the procedures of each Council should in some measure be left to its members to devise, as is the custom elsewhere in Europe and North America. The Council would appoint one of its members to chair its meetings. We expect that the Council's specific powers would include:
- \* responsibility for approving the annual budget and fixing the level of local taxation. It thus has the ultimate power of veto over the strategy of the Executive;
  - \* the power in restricted circumstances to call a local non-binding referendum;
  - \* the power to modify an annual policy plan emanating from the Executive, backed by its ultimate control over the budget;
  - \* the power to approve or reject the annual Democracy Plan for the Authority (See Chapter Five);
  - \* responsibility for monitoring the Executive, probably through committees. Councils should also be given a statutory right to information from all other local agencies, quangos and monopoly utilities operating in its geographical area;
  - \* the power to conduct investigations into the activities of the Executive and produce an annual report on the activities of the Executive.

- 4.7 The size and scale of the Council would reflect its role as a revitalised representative and deliberative assembly. We believe the ratio of electors to each Councillor should be brought closer to the European average, which means smaller constituencies and more elected members. We would hope to draw into the Council a wider range and diversity of people as the demands of Council work would be less than that undertaken by current councillors. A 1993 survey claimed that councillors spent an average of 74 hours per month on council business. A later survey said that chairs of school governors spend 20 hours per month on school governing matters and ordinary governors 3 hours per month. These studies probably underestimate the demands of the role, but do offer a broad picture of the commitment likely to be associated with Council work. It is vital that the new job of Councillor be designed to attract a wider range of people. We envisage that Councils would consist of approximately twice as many members as is currently the case in local authorities.
- 4.8 We stress that Councils should be autonomous in how they choose to undertake their role. They would probably want to set up committees to focus on particular services, as well as commissions or working parties, perhaps on an area basis. They would be obliged to establish scrutiny committees and for this would require their own small staff to help them monitor the Executive. What is essential is that this new body be seen as a novel institution in British local government, offering the public a distinct conduit for their views, suggestions and complaints. A local authority would no longer be seen as a monolith, dominated by the parties and their whipping systems. It must be more open, certainly more representative, perhaps more disorganised. It will be more democratic.

#### **THE ELECTED LEADER/MAYOR**

- 4.9 There are many models for a directly elected executive structure in local government. Our proposal is for one in which the Leader/Mayor heads the administration of the Authority and appoints its senior officers, but is subordinate to the Council in so far as the latter has control over the budget and the broad policy plan. The Leader/Mayor must negotiate with the Council for resources and thus for general policy approval. This is sometimes called a "weak executive" model.
- 4.10 The Leader/Mayor of each local authority would be voted upon by the Authority's entire electorate. We are aware that there has been much debate on the role of such a figure, including a consultation paper issued by the Department of Environment in 1991 and a subsequent working party report in 1993 ("The Internal Management of Local Authorities in England." HMSO July 1991 and "Community Leadership and Representation: Unlocking the Potential." HMSO July 1993). Further reading on this

area drawn from experience in Europe, America and Japan is set out in the Bibliography at *Appendix II*. We would point out that the reform we are proposing is not exceptional. It is the rule in much of local government the world over. The existing British system is unusual both in its structure and in its poor democratic performance.

*N1* The Leader/Mayor would normally be expected to hold a full-time salaried position, or at least surrender any interests that might conflict with his/her position for the term of office. Experience elsewhere suggests that each local authority will evolve its own modus operandi. The overarching role of the Leader/Mayor is to provide leadership, both within the Executive arm and in dealings with central government and neighbouring authorities. He or she would also perform the representational functions at present exercised by council chairmen and mayors. We leave open what informal methods a Leader/Mayor would use to help guide business through the Council, relying on the separation of powers between the two institutions to promote openness.

*N2* The principal tasks of the Leader/Mayor would thus be:

- \* to prepare and submit a budget to the Council;
- \* to propose an annual policy review to the Council;
- \* to respond to Council scrutiny of the Executive;
- \* to produce an annual Democracy Plan including decentralisation to parishes, community councils or geographic areas (see Chapter Five);
- \* to employ and oversee the officers and Executive in implementing policies agreed with the Council;
- \* to exercise the functions of the local authority;
- \* to act as the representative head of the authority in all external events and lobbying.

*N3* Given our proposals for proportional representation, it is likely that most new Councils will not see any one party in overall majority. Since executive power will rest with the Leader/Mayor, policy will become a more open process of negotiation with different groups than at present. This would apply whether or not the Leader is elected on a party ticket. An ability to barter across party and interest group boundaries will be at a premium.

- 4.14** We do not wish to be any more prescriptive about the role of Leader/Mayor than we were about the Council. Some French, German and American mayors are powerful figures, well-known beyond their local communities and exerting political influence in national politics. Regardless of their formal powers, they use the symbolic significance of their office to twist arms and get things done. The resistance we detect to our proposal among MPs, political parties and any in existing local government is an indication of the radicalism of the innovation, and the new power bases it may create.
- 4.15** There are further gains to local democracy from a directly elected Executive arm. The post would be highly visible and thus highly accountable. Local decisions would be more readily identified with one person than with the more abstract notion of a party group. We accept that this might increase the role of "personality" in British local government. We see this as no bad thing in boosting public interest and turnout at elections. Local elections might be dragged back from being national opinion polls to show more concern for local issues. The Leader/Mayor should help those service areas where innovation or co-ordination is crucial, as in land-use planning, transport and economic development. This will become more important if, as we suggest below, more discretion and more access to resources can be returned to local government.
- 4.16** A network of elected Leaders/Mayors would provide a more powerful voice for local government in Whitehall and Westminster. Their visibility and elected status would give them the opportunity and the authority to speak, negotiate and make demands on behalf of their communities. The innovation offers a means of bringing together the fragments of central-local government relations and attracting media attention to local government. In particular it would help restore the political self-confidence of the big cities and re-identify local leadership with local democratic institutions. An elected Leader/Mayor would be at an advantage in negotiating within the European Union where such figures are the norm rather than the exception.
- 4.17** The role of the Leader/Mayor as head of the Executives implies a new and more delicate relationship with senior officers, over whom s/he would have the power of hiring and firing. The senior staff will need to have a sharper identification with and responsibility to the Leader/Mayor, supplying policy as well as managerial advice. The relationship must be one of close partnership, in particular with the official in the position of senior administrative officer.
- 4.18** Although poll evidence on the direct election of local Executives is limited, there is evidence that it would enjoy public support. A Public Opinion and Local Citizenship survey conducted under the auspices of the ESRC Local Governance Initiative asked

whether people agreed or disagreed with the following statement:

"The leader of the council should be directly elected by voters to represent/carry out the will of the people as a whole, and not elected by councillors as present."

With a sample size in excess of 1600, 72% agreed with this view whilst only 25% disagreed (M. Dickson, University of Strathclyde. March 1995 to be published).

## **ROLE OF POLITICAL PARTIES**

1<sup>19</sup> We considered whether it would be appropriate for the law to intervene further in the role of parties in local government. We believe that many of the criticisms of political parties would be addressed by the reforms proposed above and those to which we turn in Chapter Five. However, we do feel that councillors should be required to declare any pecuniary interest in all discussions of local authority business in their party group meetings. We also suggest that parties might put forward proposals of their own to be more open about their part in local political processes.

2<sup>20</sup> We have considered the process of candidate selection. This takes place in private and may be conducted by a few active members of the party. Since this is the usual route of political advancement, the process of candidate selection is of public importance. The system of primary election by registered party members is used in parts of the USA to select candidates. Most European parties, on the other hand, use an even more party-oriented system of candidate selection than in Britain, the power of parties often being enhanced by party list proportional representation. We are aware that at present the parties claim that they have difficulty finding candidates to stand at all. We would hope to make it more likely for candidates outside the main party political oligarchy to have access to elections. Parties who oppose the growth of quangos on the grounds that their selection is secretive can hardly complain if their own selection process be made more open.

## **CONCLUSION**

2<sup>21</sup> The main argument against an elected Leader/Mayor is against the supposed concentration of power in a single individual. Some also feel this might increase the scope for corruption. Our proposal involves a sharing of power between the Executive and the representative Council. Such sharing is normal practice in other democracies. The Leader/Mayor must act in open partnership or s/he will be ineffective. The principle of checks and balances which we believe should underpin relations between Whitehall and the localities, also underpins the constitution of the new authorities. Executive power resides with the Leader/Mayor, but checked by the power of the

Council. It must approve or dispose of the budget. The actions of the Council and the Executive may well be more in conflict. But there is conflict in local government at present. We are seeking to draw back the veil on what already happens within town and county halls and expose the pressures between the governing Executive and the representatives of local people. This we believe will encourage more people not just to vote but to involve themselves in the decisions of local authorities. We want a system that is more democratic.

### **RECOMMENDATIONS**

- 1 Local authorities should consist of a directly elected Council and a directly elected Leader/Mayor. Both Council and Leader/Mayor should be voted in for a term of three years but the elected Leader may only serve two full terms in office. (*Paragraph 4.3*)
- 2 The Council would be elected on a multi-member ward basis. (*Paragraph 4.5*)
- 3 The specific powers of the Council would be to approve or reject the Executive budget and other proposals; to call referenda; to approve or reject an annual policy plan for the Authority; to approve or reject the annual Democracy Plan for the Authority; to propose individual policies to the Leader/Mayor; scrutinise the Executive and also the work of other local government organisations in its area. (*Paragraph 4.6*)
- 4 The Council would have more members than is currently the case in English and Welsh local authorities. (*Paragraph 4.7*)
- 5 The principal tasks of the Leader/Mayor would thus be to prepare and submit a budget to the Council; to propose an annual policy review to the Council; to respond to Council scrutiny of the Executive; to produce an annual Democracy Plan including decentralisation to parishes, community councils or geographic areas (see Chapter Five); to employ and oversee the officers and Executive in implementing policies agreed with the Council; to exercise the functions of the local authority; to act as the representative head of the authority in all external events and lobbying. (*Paragraph 4.12*)
- 6 Councillors should be required to declare any pecuniary interest in all discussions of local authority business in their party group meetings. (*Paragraph 4.19*)

## CHAPTER FIVE

# INVOLVING THE CITIZEN

**N**ot all citizens can or wish to have equal participation in local democracy. Our purpose is to ensure that the maximum number do. This means avoiding all impediments to involvement and actively stimulating it. The widest participation of citizens in the processes of democracy can make it difficult and even messy. Yet it is the defining characteristic of democratic citizenship and democracy's one sure defence. We have presented the direct election of Council representatives and of the Leader/Mayor as the principal form of political expression.

- 2 There is also growing evidence (CLD Research Reports Nos 1 and 2), both in Britain and in democracies abroad, that modern citizens demand a deeper and more regular involvement in the decisions that affect local services and the local environment. Already in England and Wales education, housing and planning require statutory consultation before certain decisions and local authorities and other institutions of local administration survey their citizens, inform them through newspapers and local media, and liaise with them as customers. In this chapter we examine possible responses to this demand.
- 3 We believe that there are three distinct forms of involvement that local democracy should offer to the citizen:
- \* A strong electoral system
  - \* Referendums and ballots
  - \* Other forms of consultation

### THE ELECTORAL SYSTEM

- 4 We have emphasised voter turnout as the single most critical indicator of democratic health. We hope that the reforms proposed in Chapter Four will stimulate greater interest in local politics, reflected in higher turnout at elections. We now propose a number of practical improvements to the electoral process itself.
- 5 The present electoral system in local authorities selects councillors on first-past-the-post (FPTP). As noted in Chapter Two, this produces results which in local government severely distort the representational pattern of councils and leave minorities permanently under- or unrepresented. The system also tends to exaggerate partisan conflict at the expense of community leadership, consensus and participation.

- 5.6 We are persuaded that, irrespective of the case for proportional representation in national elections, the case for it at the local level is overwhelming. Local government in the 21st century will be concerned with coalitions of interest in an increasingly plural society. The skills of politicians will be directed to securing the support of disparate interests in the community. If local government is to be vigorous, independent and potent, the system must be one that recognises and encourages this requirement. The election of representatives must reflect the widest range of local opinion. Votes should have as far as possible equal value, and the resulting choice of representatives should be as nearly proportional to the votes cast as can be achieved. We believe therefore that elections to local authorities in future should be conducted on a system of proportional representation.
- 5.7 We considered four propositions (initially proposed by John Curtice in a paper for the Commission entitled "Electoral Systems for Local Government"). They are, first, that voters should have as much say as possible in the election of individual candidates; second that the electoral system should make it easier for candidates to stand as independents; third that councillors should be associated with a geographical district with which voters can identify; and fourth that there is no need to set artificial thresholds to reduce the chances of small parties being represented.
- 5.8 An open-party list would make it easier for parties which lack any geographical concentrational support to secure representation. Under such a system, a party centrally chooses who goes forward as councillor based on the number of votes cast for it over the authority as a whole. We believe this puts undue power in the hands of parties and this is particularly unsuited to the new style of Council we are wishing to create. We wish to continue a system that relates elected members to geographical areas. Our democracy stresses the relationship between the representative and the electorate. Party list systems do not achieve that. Individual candidates should be directly accountable to a neighbourhood electorate. We conclude that a single transferable vote system based on multi-member wards would make it easier for independents to stand as candidates and give voters the maximum choice between local candidates.
- 5.9 The Commission believes that the single transferable vote system already experienced in Northern Ireland local elections could be readily introduced into English and Welsh local elections. Under the STV system (described in more detail in *Appendix IV*) voters are able to support the party of their choice but discriminate between candidates in that party and go on to other candidates if they wish. We propose that wards would return more members than at present. We suggest between 5 and 7 members as is the practice in Northern Ireland.

I'0 The election of the Leader/Mayor is essentially a "majoritarian" exercise. Elections for a single office cannot produce a "proportional" outcome. It is nevertheless possible to ensure that the person elected has the demonstrable support of as many voters as possible. Two systems can achieve this. The first is the alternative vote, the second is a two-ballot procedure (as in the elections for the French President).

I'1 We prefer the alternative vote system under which electors express preferences for other candidates than their first choice, to be activated if their first choice does not win an outright majority. If no candidate achieves more than 50% of first preferences, then the weakest candidate drops out and his/her second preference votes are reallocated to the remaining candidates. This reallocation continues until one candidate has secured over half the votes (for more detail see *Appendix II*).

I'2 In a two-ballot system if no candidate secures over half the vote on the first ballot then a second ballot is held in which only the top two candidates from the first ballot are allowed to stand. This procedure is costly and time-consuming and we doubt if it will be attractive to voters in this country. There is a further advantage to the alternative vote in that it is similar in character to the single transferable vote, which we have proposed for elections to the Council. Voters would be required in both instances to give preferences and this will simplify the poll form.

I'3 These arrangements for a revised electoral system and for the direct election of Leaders/Mayors should be applied to all single-tier and two-tier units of local government. Parish and community councils may find such a procedure cumbersome. The small electorates and informality of such councils would not justify the adoption of a new electoral system. However, we think it right that the communities involved in such bodies should have the opportunity to choose their own electoral system in consultation with their local authorities.

## THE CONDUCT OF ELECTIONS

I'4 A number of people have proposed that accountability could be improved by requiring annual elections, by thirds, in all Councils. Representations have been made to us that an annual election would give citizens a de facto annual referendum on the budget proposals. This would be a crude tool to improve accountability. We feel the heightened status they give political parties and the cost involved does not justify the benefit. The continued role of such elections as national barometers of opinion also demeans their local accountability. On balance we believe that the proposals in this chapter for enhancing citizen participation, together with limited terms of office for the Leader/Mayor and a reduced term for the elected Council, will make both sufficiently sensitive to public opinion.

- 5.15 Election by thirds would have the effect of diminishing the benefits of proportionality derived from the STV system that we are proposing. We therefore propose that annual elections should be discontinued where they presently take place.
- 5.16 Every change should be considered in the administration of elections that might improve turnout. Elections are held between the hours of 8am to 9pm and general elections for longer, 7am to 10pm. We can see no good reason for the difference and propose that the extended hours apply to both.
- 5.17 The traditional ballot is by attendance at the polling station with some exceptions allowing proxy voting or postal voting for absent voters. We believe that it is absurd that citizens need to prove some qualification for postal voting. In New Zealand, long troubled by low turnout at local elections, experiments with postal ballots produced dramatic increases in turnout. Now postal balloting is widely used in local elections in that country. Regulations are already in place to do this in Britain. The vulnerability of such balloting to abuse, where the head of a household might complete papers for the whole household, should not invalidate attempts to introduce it widely in Britain. We therefore believe that universal postal balloting should be introduced for local elections.
- 5.18 The national average for electoral registration is 95% of those eligible, yet up to three million voters were not apparently included in the 1991 register. The annual process of updating the electoral register has a good response, after a mixture of postal and personal canvass by the electoral registration officer's staff. We believe that local authorities should be required to fund a full personal canvass of their area each year as a matter of course. We are also in favour of a rolling register where new electors can be added to the electoral role at any time in the year, rather than wait for an annual update as at present.
- 5.19 Local elections are currently held on Thursdays. Elsewhere in the European Union elections are held on Sundays. It has been suggested that the poll in Britain be held over a complete weekend, to give the greatest opportunity to vote at times when people are likely to be free. Polling stations are in buildings such as schools that may have to be closed on polling day. If personal polling, as well as postal balloting continues then consideration should be given to increasing the range of places where voting can take place. We do not have a definitive view on these matters, but believe that there should be experiments to test new systems.
- 5.20 The traditional ballot papers and hand count will have to be replaced if all our recommendations are accepted. Proportional representation and contemporaneous elections for multiple bodies, perhaps with added referendum questions, will require

ballot papers of a different kind. Electronic counting systems are widely available and used in other countries. They should be introduced to Britain.

## THE JOB OF COUNCILLOR

- .221 Our proposed reforms will change the role of Councillors. They may free Councillors from the necessity to meet in frequent decision-taking gatherings and enable them to better plan their work. One of the main purposes of our reforms is to increase opportunities for citizens to stand for election, without committing unreasonable amounts of time to politics. We believe that our reforms will encourage more people to become Councillors, but at present those under 21 would still be unable to stand for election. We believe that this is wrong. The nature of our new Councils is such that the voice of youth should be included in the representational process. We believe that the age of candidature should be lowered to 18, the same as the voting age.
- .222 We consider that these reforms will demand a new attitude towards the remuneration of Councillors. We are aware that the government proposes a relaxation of the present limits on payments to Councillors. But the new vigour in local democracy which we wish to encourage should enable Councils to propose freely to their electorates any system of remuneration they wish to introduce.
- .223 We believe that elected representatives should be supported in their work with appropriate office, secretarial and other facilities. There is already good practice in local authorities, but we would like to see universal acceptance of properly funded Councillor support. We propose that local authorities should be under a duty to prepare local schemes for the remuneration and support of Councillors to enable them to carry out their functions effectively and without unreasonable financial penalty. There should be no national regulation of such schemes.
- .224 We have considered the present rules preventing "twin-tracking", restricting the political activity of Council employees and preventing their standing for election in authorities other than those by which they are employed. The present criteria restrict the political activity of all whose salary is above a certain level (currently £24,576) or who give regular advice to the Council or who speak regularly on behalf of the Council to the media. All officers other than Chief or Deputy Chief Officers may apply for exemption. Political activity includes canvassing, standing for office, and speaking or writing publicly in a way which indicates support for a political party.
- .225 We acknowledge that the public are entitled to expect high standards and impartiality from their officials at senior level. But we consider that the present arrangements are

unduly restrictive of too wide a class of employee. The new systems we propose will change the nature of Councils, making them non-executive. We believe that the rules on "twin-tracking" could be relaxed by raising the salary limit and permitting canvassing, standing as a candidate elsewhere, and writing in support of political parties by all but senior officials. Our research has shown that local Council employees are eager to play a more active part in local affairs than is permitted at present. The existing rules reflect a concern over the perceived union-dominated culture in some local authorities in the 1970s. Local democracy would benefit from a more relaxed approach.

### **CONSULTING THE CITIZEN**

**5.26** Referendums have rarely been used by governments in this country. One has recently been offered over constitutional changes for Northern Ireland. There are no accepted criteria for the use of referendums. The sovereignty of Parliament has usually been cited in opposing any other expression of the people's will. Referendums have been used over European and devolution decisions. A number of local authorities have conducted informal polls. Most notable in Scotland was the Strathclyde referendum in 1994 on the government proposal for the future of the water industry. A 71.5% turnout was achieved. The turnout contrasts strongly with voter turnout in full elections (see Chapter Four). Coventry held a referendum on increasing its annual rate in 1981. Proposals to use referendums more widely were made by Michael Heseltine in an early draft of the Local Government Finance Bill 1981.

**5.27** Overseas, referendums and "propositions" are commonly used in local government, particularly in the United States and Switzerland. A referendum was held in New Zealand in 1992 on the voting system for Parliament. On an 82.6% turnout this supported a change from FPTP to a proportional voting system used in Germany (by 54% to 46%). In Germany a number of Länder have, or are introducing, the right to hold referendums in local government. Italian communes use them as does Danish local government.

**5.28** Referendums might be instituted at the behest of the Council or of the citizens, or both. They might precede certain decisions; be taken between decisions and implementation in effect to ratify or endorse; or be taken at any time. The questions to put in the referendum might be set by those instituting the referendum, or settled by an independent body. The subject matter capable of being put to referendum might be defined and therefore limited, or be open-ended.

**5.29** There are obvious risks associated with what has been termed plebiscitary dictatorship. It is not easy to reduce complex issues to a single question, to be answered positively or

negatively. If turnout is low the outcome may be a weak expression of view. Referendums undermine the representative roles of both the Leader/Mayor and the Council and undermine their respective mandates. Yet local referendums do give citizens direct participation in decisions and open debate on questions of possible long term importance to communities wider than the forum of the Council.

5.30 Our view is that referendums will have an increasing role in local democracy. Our other reforms should be vigorous enough for such referendums not to be binding. Both the Leader/Mayor and the Council should have powers to conduct an advisory referendum of citizen opinion at any time in relation to any of the functions of the Authority. In addition, a specified percentage of the electorate should be able to petition for an advisory referendum on any question relating to the functions of the local authority. Clearly the percentage should be fixed so as to avoid frivolous abuse. Following a referendum, the Leader/Mayor and Council should be required within a prescribed time to give a reasoned response in public.

5.31 We recommend that administrative steps for the conduct of a referendum should be similar to those for local elections, to ensure publicity, the secrecy of the poll and the probity of the process. There should be prescribed arrangements for the registration of the promoters of the petition and the verification of signatories. It is important that the timetable allows for adequate publicity and debate.

5.32 We believe that the costs of conducting the referendum should be borne by the authority. There should be limits on the amount of expenditure to be incurred by those promoting or opposing the referendum. Although some argue for the drafting of referendum questions to be undertaken by an independent body, the Commission does not recommend the establishment of such a body; at least at the outset. The referendum proposed is advisory only, and the questions can be presented to give guidance rather than a definitive outcome.

5.33 We have also considered the use of citizen ballots, as used in parts of the USA. These are in effect referendums held at the same time as local elections, using the same ballot paper and machinery. The proposition to be placed on the ballot paper must first have been the subject of a petition and subject to the same rules. A benefit of the citizen ballot is that it may attract greater interest even than the election itself. Unless a limit is placed on the number of such propositions to be placed in the ballot the poll may, however, be confusing for electors. The Commission believes that there is no objection in principle to this development. We recommend that citizen ballots be introduced under the same regulations as referendums but with a limit to the number of propositions allowed in the ballot.

5.34 Other means have been put to us to involve the public more directly in the government of their communities. Recent changes in the way that services are planned and delivered have emphasised the importance of consultation and of consumer response. In housing there has been more involvement of tenants in the management of housing estates. New systems of management in social care are requiring local and health authorities to consult users and carers more systematically. Parents have been given more rights to information and involvement in education, both as users and as governors. There is today a wider recognition of the need to consult people more about the services that they receive, and to involve them more directly in the planning and management of those services.

5.35 As the limitations of past consultation and involvement have become apparent, public services have become more responsive. Inviting people to public meetings is not enough. Many cannot easily get to meetings which are often hostile and inconclusive. Information about local needs is often inadequate, as many health authorities have found in preparing their commissioning plans. Attempts to involve people in the management of services are often frustrated by legislative and other barriers. It is difficult, for example, to devolve financial control to the users of social care services because of audit and other regulations. The move to contract-based funding makes direct community involvement harder to operate.

5.36 We nonetheless believe that the development of consultation, involvement and direct user control are crucial to the creation of active community self-government. Special interest groups frequently find difficulty in getting access to local service organisations. Unemployment and deprivation can cut people off from the community. Disability can create practical and social barriers to involvement. Mental illness can lead to social exclusion. Democracy will always be limited if it does not seek to ensure the widest involvement.

### DEMOCRACY PLAN

5.37 We believe that the involvement of citizens in the decision-making processes of the authority should be a fundamental principle of our new system of local government. We therefore propose that all local authorities should be placed under a duty to prepare annual plans (Democracy Plan) for the representation of their local communities. These plans would include the devolution or decentralisation of functions to existing or new parish councils, or other decentralisation initiatives.

38 We believe that an annual public Democracy Plan would form one of the key checks in the new system. It should become a vital part of the new Leader/Mayor role to produce this plan for discussion at Council and present it to the electorate. In effect what would be offered would be a democratic audit to match the financial and service level audits that are suggested elsewhere. We do not wish to decide the content of such an audit nor the strategy that may arise within authorities arising from the process. We do suggest that the following measures may be worthy of consideration:

- citizens' juries and other forms of deliberative assembly
- electronic networks
- the use of "phone-ins"
- standing panels of citizens to monitor the provision of services
- innovation in public meetings to make them less confrontational and more deliberative
- mediation groups to encourage exchange between conflicting interests
- citizens as monitors to report on the democratic failings of both the Council and other agencies
- user involvement in the development of service plans and priorities
- community development
- direct officer support to community groups in deprived areas

39 It is important that each Authority be allowed to develop an experimental approach. They should judge themselves both on their ability to increase the involvement of the many and also on their success at reaching out to groups regularly isolated from the democratic process. We are seeking nothing less than a citizenship strategy within localities.

## **INVOLVING STAFF**

40 Local services are not delivered by distant bureaucrats, but by teachers, police officers, refuse collectors, home helps, librarians, fire officers, street sweepers, bus drivers, clerical officers. These staff are in direct contact with the public and to many members of the public they are local government. The way that people experience local government will be determined by the way that they are treated by those who provide services. It is important that staff treat people courteously and sensitively, and that they are helped to respond to local need. Local democracy will be ineffective if its implementers feel powerless and demoralised. They have an unrivalled knowledge of services and of their effectiveness.

5.41 We believe that local authorities should develop more effective methods of consulting staff in the course of policy formation. The right of staff to complain about organisational failures should be clear. There should be channels available to staff to "blow the whistle", to declare their concerns about services and express suggestions for their improvement. This is particularly important where legal restrictions exist to their formal participation in local politics. Staff are also the first line of defence against corruption. The involvement of staff should be a part of the Democracy Plan that the Leader/Mayor is obliged to put before the council each year (see above).

### **THE HABIT OF CITIZENSHIP**

5.42 The values and practice of democracy require a priority to be given to the teaching of "citizenship" in the statutory system of education. The recommendations outlined in "Encouraging Citizenship: Report of the Speaker's Commission on Citizenship" (1990) are of particular help in considering how young people might learn the rights and obligations of citizenship. As the then Speaker, Bernard (now Lord) Weatherill remarked in his introduction, "citizenship, like anything else, has to be learnt". He acknowledged that citizenship is an unfamiliar notion. T H Marshall (quoted by the Speaker's Commission) suggested three elements: the civil element, being the rights necessary for individual freedoms; the political element, being the right to participate in the exercise of political power; and the social element, being the right to social security to enable all the rights to be enjoyed and exercised.

5.43 The Speaker's Commission concluded that there was no systematic teaching of citizenship in the UK, a finding of direct relevance to the work of this Commission. Our recommendation for a revived local democracy will depend on the willingness of citizens to take part actively in the democratic process and in its institutions. They will need to understand them clearly and their role in them. Education in citizenship is therefore essential. The Speaker's Commission said,

"Young people should leave school with some confidence in their ability to participate in their society, to resolve conflict and, if they oppose a course of action, to express that opposition fairly, effectively and peacefully. These skills within school may involve, for example:

- the capacity to debate, argue and present a coherent point of view
- participate in elections
- taking responsibility by representing others, for example on the school council
- working collaboratively

- playing as a member of a team
- protesting, for example by writing to a newspaper or Councillor or local store.

The development of social, planning, organisation, negotiating and debating skills is a major part of this."

**5.44** The Speaker's Commission proposed therefore that these skills should be developed in school, as well as the theoretical study of the knowledge of citizenship and its rights and duties. We would go further and suggest that they be a formal part of the core curriculum. The recommendations of the Speaker's Commission which relate to education are set out in Appendix V.

## **RECOMMENDATIONS**

- 1 Local elections for Councils should be conducted on a system of proportional representation using the single transferable vote in multi-member wards. The elected Leader/Mayor should be chosen by a ballot of all of the citizens in a council area using an alternative vote system. (*Paragraphs 5.9 and 5.11*)
- 2 There should be experiments to see if voter turnout could be improved by changing the polling day; bringing the hours of polling for local elections into line with those for general elections; extending the range of venues where polling may take place. (*Paragraphs 5.16 and 5.19*)
- 3 Universal postal balloting should be introduced in local elections. (*Paragraph 5.17*)
- 4 Local authorities should be required to finance a full personal canvass for the electoral register every year and should then maintain a rolling register. (*Paragraph 5.18*)
- 5 Research on systems of electronic voting and counting should be undertaken urgently to produce a comprehensive system available to implement the electoral recommendations of the Commission. (*Paragraph 5.20*)
- 6 The age of candidature for election to a local authority should be lowered to 18. (*Paragraph 5.21*)
- 7 Local authorities should be under a duty to prepare local schemes for the remuneration and support of Councillors to enable them to carry out their functions effectively and without unreasonable financial penalty. There should be no national regulation of such schemes. (*Paragraph 5.23*)

- 8 The rules restricting political activity of employees should be relaxed for all except senior officials. (*Paragraph 5.25*)
- 9 Both the Leader/Mayor and the Council should have powers to conduct a referendum of citizen opinion at any time, such referendum to be advisory and a specified number of citizens should be able to call for a referendum on any matter pertaining to the local authority. Questions to be put to the full electorate may also be inserted onto the ballot paper with a limit on the number allowable. (*Paragraphs 5.30 and 5.33*)
- 10 Local authorities should be under a duty to produce an annual Democracy Plan for decentralisation and citizen involvement. (*Paragraphs 5.37 and 5.38*)
- 11 Local authorities should develop more effective methods of consulting staff in the course of policy formation. The right of staff to complain about organisational failures should be clear. (*Paragraph 5.41*)
- 12 We consider that the recommendations of the Report of the Speaker's Commission on Citizenship (1990) are of particular help in educating young people in the duties of citizenship and propose that citizenship should become part of the core curriculum. (*Paragraph 5.44*)

## CHAPTER SIX

# A NEW AUTONOMY

- 6.1 So far we have concentrated on strengthening the electoral and consultative processes in local government. This will not be sufficient to revive local democracy in Britain without ensuring that the institutions of local government are themselves made more robust and independent. Local democratic choice must be able to affect a political and governmental outcome.
- 6.2 Local authorities are the primary local democratic institution of local government. A reformed and more responsible democratic process should give confidence to central government that local institutions are capable of exercising wider autonomy, as elsewhere in Europe. The Commission believes that the recent reduction in the functions and independence of local authorities must be reversed.

### THE CONSTITUTIONAL STATUS OF LOCAL AUTHORITIES

- 6.3 A number of submissions to the Commission have suggested that there be a new contract between central government and local authorities, "a concordat". The government itself in November 1994 agreed a set of anodyne guidelines for improving relations with local institutions. We do not think these remotely adequate.
- 6.4 We believe that local authorities should be given a clear statutory basis for their role and function in the State. Britain should adopt and ratify the European Charter of Self-Government. Article 2 states that the principle of local self-government shall be recognised in domestic legislation and where practicable in the constitution. There is no good reason for Britain not to do this.
- 6.5 Local authorities should be given some version of a power of "general competence". The power would enable local authorities to undertake any activities that they consider to be in the interests of their area unless specifically prohibited by law. Such a power was argued for in the Maud Committee Report of 1967, by the Wheatley Commission (in respect of Scotland) in 1969 and again by the Royal Commission for Local Government in England in 1969, although in a narrower form as a general power of expenditure. The Widdicombe Committee was not persuaded of the case for a power of general competence unlimited by any financial ceiling but it did argue for improvements to existing powers to allow a financially limited general discretion. Subsequently others have argued for a more cautious approach to this issue, proposing some experiments on the lines of the Scandinavian free communes or the establishment of standing arrangements in Parliament to permit relaxation of the law on application by individual authorities.

- 6.6 The recent reduction of function and independence of local authorities must be reversed. We believe that the discussion of the point in the Maud report is more relevant today than when it was written. Courts have since taken a restrictive view of local authority powers. As the Maud Committee remarked, "ultra vires as it operates at present has a deleterious effect on local government because of the narrowness of the legislation governing local authorities' activities. The specific nature of legislation discourages enterprise, handicaps development, robs the community of services that the local authority might render, and encourages too rigorous oversight by central government. It contributes to the excessive concern over legalities." All these consequences, foreseen by Maud, have grown worse in recent years.
- 6.7 We also agree with other conclusions of the Maud Committee on the relationship between central and local government:
- "a) that a fresh approach is required by central government which ought to acknowledge openly that local authorities are not only responsible for the administration of such services as are conferred upon them by Parliament within the framework of national policy, but are also competent to administer them. This approach should allow local authorities freedom to provide other services which they believe are necessary.
  - b) that local authorities should be seen to be responsible to their electorates (not exclusively to a central Parliament) for the adequacy of the service that they provide.
  - c) that unless local authorities are seen to have a greater measure of responsibility, they are unlikely to continue to attract people of high ability to their service."
- 6.8 The argument for a power of general competence is compelling but we recognise that it must be subject to some general and over-riding principles. For example, local authorities will be subject to the rule of law; they will have to work within the legislation establishing and regulating services; there should be limitations in their capacity to engage in solely commercial enterprises; they should not encroach on the powers or duties of other public bodies; they should not be able to discriminate, speculate, or expropriate; they should not be able to borrow without any central oversight at all. Some would argue that these reservations would substantially negate the value of the power. We disagree.
- 6.9 We believe that general competence also has a symbolic position; it emphasises the importance of local government's responsibility for and to its community. Following our other recommendations, a local authority exercising a power of general

competence should generate debate and controversy. Support for its action will have to be found from the electorate and this in itself will contribute to democratic accountability.

## FUNCTIONS

- 6.10 There is no simple principle to guide a decision as to what function might most properly be assigned to any tier or agency of local administration. The present government has laid down some principles to regulate the performance of functions. These involve separating the client from the contractor, whether expressed as such or as purchaser/provider or as commissioning agency and source of delivery. The principles apply whether or not the contractor is in-house.
- 6.11 We believe that local authorities can discharge their responsibilities in many ways and not necessarily by in-house provision. But this does make it harder for citizens to perceive where responsibility for decision and performance lies. Local councils need to be able to speak and plan for diverse communities, to lead economic development, and to respond to developmental needs. They cannot do so unless they have a functional capacity, and influence. Local democracy is more than local debate: it must involve taking responsibility for the local community. We believe that a thriving local democracy needs to be able to influence the outcome of its decisions, to plan and do things for itself.
- 6.12 The way in which local authorities manage and influence local functions has changed. Restoring functions removed from them over the past two decades may not mean taking back direct responsibility for service provision. It must mean taking responsibility for the strategic planning and direction of a service and determining its place in the local economy and local community. It also means determining the service budget, purchasing the service, sometimes through competitive tender and monitoring the quality of its performance.
- 6.13 Local authorities should have ownership of, and responsibility for, pre-higher education in their areas. It is widely recognised that Local Management of Schools has led in the direction of far greater institutional independence, with a more rigorously devolved administrative structure and greater institutional freedom to manage resources. We propose that responsibility for planning the local education service should be fully restored to local authorities. This would include all 16-19 education, including the existing "grant-maintained" sector, the careers service and local inspection of schools. There would continue to be delegation of budgets to governors and the freedom to contract services. But investment planning would be an Authority

responsibility, more flexibly exercised with the end of budget capping.

**6.14** We believe that the Fire Service should remain under local authority control and we believe that the current police authority reforms should be reversed. The Police Service should be locally accountable (but centrally inspected) with its budget a local responsibility.

**6.15** We propose that more highway agencies be returned to local authorities by the Department of Transport, and that local authorities should retain control of transport and waste disposal undertakings, albeit at arm's length.

**6.16** We propose that recognition is given to the community leadership role which local authorities play by giving them statutory rights to monitor and comment on the activities of other local government bodies, including public utility companies operating within their locality. Local authorities should be free to represent the interests of the local community in any manner they think appropriate. Local authorities should be recognised as having a clear responsibility to lead local economic regeneration. Even before their imminent demise, the planning powers of UDCs should be returned to their local authorities.

## **FINANCE**

**6.17** There should not be another root and branch reform of local government finance. There will always be tensions in any local government finance system. The pursuit of the Holy Grail for a perfect system should be abandoned. No wholly acceptable proposals can be found which will express precisely local democratic accountability for local spending decisions, while incorporating large government grants.

**6.18** There is an absurdity in any government proclaiming more scope for local authorities and centralising and standardising services nationwide. The wider the functions of central government, the more that government is likely to meddle in service delivery. But the key to returning power to local government is for local taxpayers to accept a rising share of the tax burden (with a lower burden on national taxes). Discretionary local taxes have shrunk from covering 60 per cent of local expenditure ten years ago to covering just 20 per cent today. This percentage must rise if local autonomy is to have any real meaning. There is no way round this painful conclusion.

**6.19** Local authorities throughout the world enjoy some autonomous source of tax revenue. The present system of local taxation in Britain is not sufficient or robust enough to bear the cost of all or even some local responsibilities. Government has been drawn into a

complex and detailed relationship with local government as a result. Grants from central government may be to support specific tasks, they may be to achieve minimum standards, they may be to ensure a reasonable level of local taxation in poorly resourced councils, they may correct for services provided by one council with impacts over several, and they may try to equalise resources. There is widespread support for central government's role in achieving needs and resources equalisation.

6.20 We are only concerned with systems of local authority finance in so far as they enhance, or impede local democracy. At one extreme, local authorities might have responsibility for nothing but purely local functions for which local taxation would supply sufficient revenue - such as parks and street cleaning. Government would have no interest, other than a regulatory one, and therefore a clear link between local taxation and local spending could be made. Local authorities would be functionally weak. At the other extreme all local services might be funded from national taxation, but local authorities would be responsible for the management of those services. Financial provision would clearly be the responsibility of government, but local performance that of the local authority. Local authorities would be administratively active, but not independent. This broadly is the view of the present government.

6.21 We have received many alternative ideas. Some have suggested that central government grants should be clearly identified as being in respect of certain services (eg personal and protective services) leaving local services to be financed wholly from the property-based tax. The Audit Commission in "Passing the Bucks" - a discussion of standard spending assessments - canvasses the use of contracts between central and local government for key services. This might clarify government responsibility, but it would undoubtedly shift power to the centre. Others suggest that central grant could be much reduced as a percentage of local spending if a local income tax was introduced to supplement the property tax.

6.22 Our response is designed to shift revenue discretion back from central government to local authorities. Given that many local authority functions are national in character as well as local in performance, central money will continue to flow, primarily to equalise needs and resources and to supplement local revenue. The Commission believes that a new settlement is needed to establish the financial framework of the relationship between central government and local authorities. The government should stand back from day-to-day involvement in local authority affairs and trust in local democracy. Central grant should be available to support local councils only where central government needs to have a service delivered up to a declared national minimum standard. This requires the continuance of block grant which, in itself, implies the continuance of some assessment of need, or else the concept of equalising resources between areas is meaningless. Local government must accept this.

- 6.23 The Audit Commission reminded us in "Passing the Bucks" that the Council of Europe has recommended criteria for promoting the equalisation of resources between local authorities, which the government apparently supports. The Audit Commission itself proposes a number of criteria for the grant system. It should be simple and comprehensible; it should give stable results year on year; the data upon which it is based should be reliable; it should not provide authorities with perverse incentives; needs assessment should exclude efficiency variations; it should enable similar rates of local tax to be levied for a given level of spending; it should produce an allocation of resources which is widely accepted as "fair"; it should protect local autonomy and promote local accountability while permitting consistency with government spending priorities; and it should be founded upon a process of consultation between central and local government. We agree. This should be part of the new settlement.
- 6.24 But local revenue discretion must be real. The capping of budgets, revenue and expenditure is wholly incompatible with democratic accountability. It is as offensive to local government as capping by Brussels would be to a national government. While government argues for capping on macro-economic grounds, it uses it to produce a maximum of local conformity and uniformity in standards. This is equally offensive to local diversity as it is to local autonomy. While some councils in the early 1980s were undoubtedly "overspending" and hurting their full-rate rate payers, this applied to very few. Our other reforms should enable government to return fiscal discretion to local authorities with more equanimity.
- 6.25 We believe that the central grants should not be ring-fenced. Instead, local revenue should be boosted by restoring the business rate to local authorities. This would both give greater revenue discretion to local authorities and restore an important relationship between them and their business communities. Consideration should be given to longer-term reform, such as site value rating.
- 6.26 Democratically robust local authorities need a source of independent finance. We disagree with those who have argued that even if all services were funded by central government, local democracy might still be able to influence service delivery. Existing centralisation gives the lie to that. Local authorities must be able to resource their policies independently, accountable to local not national electorates. The budget negotiations between the Leader/Mayor and the Council should always be more important than the government's grant announcement.
- 6.27 We are satisfied that the best independent source of income for local government must be a property based tax. We do not propose any major changes to the council tax and accept that, if our great autonomy is to be made reality, it will have to bear a

considerable burden of accountability. Its rise or fall will become the primary token of local accountability - as was intended for the poll tax but never realised.

6.28 In the longer term we are attracted to a number of the proposals contained in "Alternatives to the Community Charge" commissioned by the Joseph Rowntree Trust from Coopers and Lybrand Deloitte. We believe that communities should have the opportunity to select from a wider range of taxes. The recent proposal from businesses in London that a levy might be made on business ratepayers to fund transport infrastructure is a welcome example of communities seeking their own solutions to problems. The instant dismissal by the Treasury of a revenue source for which there appeared widespread local support was shortsighted.

6.29 We believe that restrictions on the use of capital receipts and land transactions should be relaxed to allow authorities freedom to invest in assets for the long-term benefit of their area.

## **RECOMMENDATIONS**

- 1 The government should adopt and ratify the European Charter of Local Self-Government and enact the appropriate declaratory provisions in UK legislation to define the role and status of local government in UK law. (*Paragraph 6.4*)
- 2 Local authorities should have a power of general competence to undertake any activities they consider to be in the interests of their area unless specifically prohibited by law. (*Paragraph 6.5*)
- 3 The recent reduction of function and independence of local authorities must be reversed. (*Paragraph 6.6*)
- 4 Local authorities should resume responsibility for planning and funding the local education service, including 16-19 education, the placing of grant-maintained schools in the local system and their funding; and direct the organisation of the careers service and local inspection of schools. (*Paragraph 6.13*)
- 5 The Fire Service should remain under local authority control and we believe that the current police authority reforms should be reversed. The Police Service should be locally accountable (but centrally inspected) with its budget a local responsibility. (*Paragraph 6.14*)
- 6 Highway agencies should be restored to local authorities by the Department of Transport and local authorities should retain control of transport and waste disposal undertakings. (*Paragraph 6.15*)

- 7 Local authorities should be given a clear community leadership role with rights to have access to information on, to monitor and to comment on other local government bodies and public agencies operating locally, and with a right to represent the interests of the local community in any manner they think appropriate. (*Paragraph 6.16*)
- 8 There should be a new settlement establishing the financial relationship between central government and local authorities. (*Paragraph 6.22 and 6.23*)
- 9 Government grant should not be hypothecated in any way. It should be used to equalise needs and resources. (*Paragraph 6.25 and 6.22*)
- 10 The dependence of local authorities on central government grant should be reduced; the right to set the "business-rate" should be restored to local authorities. (*Paragraph 6.22 and 6.25*)
- 11 The "capping" of local authority expenditure should be ended but not controls on their borrowing. (*Paragraph 6.24 and 6.26*)
- 12 Local authorities should be able to examine other forms of local taxation. (*Paragraph 6.28*)
- 13 Restrictions on the use of capital receipts and land transactions should be relaxed to allow authorities freedom to invest their own resources in assets for the long-term benefit of their area. (*Paragraph 6.29*)

## CHAPTER SEVEN

# THE QUANGOCRACY

- 7.1 The Commission was bombarded with comments on the growth of non-elected bodies in local government, their budgets and membership. As we noted above, these now outstrip those of democratic local authorities. The nature and extent of the bodies to which the term quango applies is not always clear. Stewart Weir and Wendy Hall in "Ego Trip" (1994) prefer the term Extra-Government Organisations (EGOs) for all explicitly executive bodies of a semi-autonomous nature. This excludes advisory bodies, tribunals, executive agencies, police authorities and the outposts of the NHS management executive. They include a wide range of other bodies, such as TECs and Housing Associations, which are managed by appointed members, spend public funds and implement government policy. We will also use this definition.
- 7.2 We believe that the onus on all such bodies is to prove why they should not be governed by elected representatives, alongside our proposed new elected Councils.
- 7.3 Our particular concern is for those appointed bodies which are responsible for functions of local government. They lack local accountability. Their operation usually falls far short of the openness and deliberation expected of existing and proposed local Councils and Councillors. Three examples of such bodies are local health authorities (formerly district health authorities); training and enterprise councils; and the new police authorities.
- 7.4 John Stewart (CLD Research Report No 10) suggests the main criterion by which a body should be subject to some local democratic control is whether it has, or should have, a significant responsibility for determining local policy, in other words where there is a significant local choice of service quality or practice. This choice should be present even where the body is operating within a framework of national policy or where its funding is wholly or largely provided by government. While we believe that the greater the central funding the less local autonomy is realistic, we in general agree with this criterion for "electability".
- 7.5 In relation to health, the TECs and the police, one approach would be for the reformed local Councils simply to take over responsibility for the functions, and to become the governing body of specific services and institutions, absorbing the staff into the local authority.
- 7.6 The AMA has argued for the health "purchaser" role to be absorbed into local authorities through an integrated health and social services commissioning authority,

formed of elected members from the local Council (The Future Role of Local Authorities in the Provision of Health Services: a Discussion Document AMA 1994). We do not agree. The health service has become a centralised national institution and such a change is too drastic. Local authority budgets would be hugely distorted by such a responsibility. There is also a mismatch of health district boundaries which would present severe administrative problems.

- 7.7 On the other hand we can see no reason for denying direct election of representatives to health authorities at the same time as Council elections, for similar terms of office and by proportional representation. Health authorities are already under the strong executive influence of Whitehall. Elected members would be "non-executive" but representative of local views. Health executive staff should not be eligible for election. Direct election might secure the interest of a wider group of members with particular service interests. The democratic element in health administration has withered almost to insignificance. It must be restored.
- 7.8 In the case of the police authorities we deplore the diminution under the 1994 Act - boasted by ministers at the time - of direct accountability of the police to local communities. We would like to see the new local authorities establish Police or Watch Committees to monitor and liaise with the local police on a formal basis, replacing Police Consultative Committees. We are not proposing the disaggregation of police authorities nor that the Police Service should become another function of the multi-purpose local authority. We would replace the local authority representatives on a local police authority with directly elected representatives who should themselves be in a majority on the police authority. Such elections should be also held at the same time as Council elections, for similar terms and by proportional representation.
- 7.9 Such elections should be introduced for a new Metropolitan Police Authority and the Home Secretary should cease to have functional responsibility for policing the metropolis. The Home Secretary would retain a full panoply of regulatory, supervisory and financial controls over national policing, and some powers of appointment.
- 7.10 We believe that whilst these authorities should be directly elected it would not be appropriate for them to have directly elected leaders. They are committees overseeing the expenditure of national hypothecated funds rather than organisations of direct community leadership.
- 7.11 The TECs also perform important purchasing roles in training and business enterprise and they do so for government and with government money. They are currently constituted as companies without local authority representation as of right, although a

small number of relevant local authority officers are usually appointed. Their main constituency is that of local employers, their work forces, the unemployed and local colleges. TECs often span the areas of several local authorities; they are concerned with their local economies and have substantial funds to implement their decisions. Their accountability to government is expressed through their contracting arrangements. Accountability to the communities which they serve is non-existent.

- .7.12 In the case of the TECs the argument for direct elections is weaker: the constituencies are less well-defined, and the function is narrower. We believe that the new local authority should appoint some of its Councillors to the boards of TECs. This would properly reflect the leadership role in economic regeneration which the reformed local authorities will have following our other recommendations. Such membership, however, could be less than a majority in order to give the other interests equal standing in the partnerships involved.
- 7.13 Joint boards and joint committees appointed by local authorities to administer services across the areas of several local authorities are barely accountable to anybody. While those bodies, covering fire, ambulance, local transportation and waste disposal, run statutory services and are subject to government oversight, the accountability of their members, sometimes only one per authority, is unclear. The bodies have precepting rather than direct taxing powers, and operate independently of the local authorities who appoint them. We believe that some of these bodies should be directly elected, as we propose for majorities on police authorities. In any case, we recommend that local councils be under a duty to scrutinise all joint boards, great and small in their areas. We believe strongly that the institutions of local government must be rid of the present "fear of voting" and "fear of politics" if local democracy is to be revived.
- 7.14 There is a variety of practice in the rules of conduct and public accountability of appointed bodies. (Local authority joint bodies, although appointed, are generally required to operate as if they were elected local authorities.) We believe the basic principles of accountability should be applied to appointed bodies exercising public functions, both in the manner of appointment to them and their conduct. The application of those principles should not be onerous, and indeed should be regarded as good practice.
- 7.15 There are a number of bodies to which a local authority appoints members, ranging from the boards of colleges and school governing bodies, to trustees of local charities. Local authorities should not be exempt from public accountability in the way they fill those appointments when direct election from a general constituency is not practicable. Where election to such a body is not considered appropriate then the process of

appointment should be explicit. Criteria for selection should be public and the availability of posts should be advertised.

7.16 All members of appointed bodies should declare their interests generally, and at meetings. The external audit arrangements should be publicised and be in line with public audit provisions of local authorities. This includes rights of question, objection and possible surcharge for misconduct or negligence.

7.17 Meetings of such bodies should be publicised; some or all meetings, and most of their agenda should be open to the public, and agenda and minutes should be routinely available. The criteria for items of business not discussed in public should be explicit. Access to information legislation should in consequence be extended to them.

## **RECOMMENDATIONS**

- 1 All health authority members should be directly elected locally, and their executive directors should not be members of the health authority. (*Paragraph 7.7*)
- 2 Members of police authorities, currently appointed by local councils, should be replaced by directly elected representatives who should be in a majority on each police authority. (*Paragraph 7.8*)
- 3 Local authorities should have the right to appoint representatives to TECs but not in a majority. (*Paragraph 7.12*)
- 4 Local authority joint bodies should be reviewed as a duty by the constituent local authorities to identify those which operate on a scale and an area to justify direct election to them, rather than appointment. (*Paragraph 7.13*)
- 5 Local authorities should make explicit the way in which they make appointments to bodies to which they are entitled to do so. (*Paragraph 7.15*)
- 6 The appointment process (for appointed public bodies) should be explicit; there should be an explicit rule as to probity of conduct; there should be open meetings, and access to information; there should be a public audit process. (*Paragraphs 7.15, 7.16 and 7.17*)

## CHAPTER EIGHT

# BOUNDARIES AND TIERS

- 8.1 During our deliberations the government introduced a total reorganisation of local authorities in Scotland and Wales and the Local Government Commission has produced its recommendations for most of non-metropolitan England, though some areas are to have further investigation.
- 8.2 We emphasise the importance for local authorities in having a functional capacity which enables them to act effectively on behalf of their communities. We also recognise that the structure of authorities should enable them to be accessible to citizens and not remote. They must offer accountability for their actions and for their functions.
- 8.3 In Wales and Scotland the government has chosen a system of unitary authorities, thus reducing both the number of councils and councillors. In the case of England the Local Government Commission has recommended a mixed system, apparently contrary to the preferences of ministers, perpetuating a two-tier system with, so far, a modest introduction of unitary authorities in a small number of areas. The metropolitan conurbations remain as they were left after the abolition of the Metropolitan Counties and the GLC.
- 8.4 We doubt whether the reorganisations, mainly into larger authorities, are conducive to strengthening local democracy in England. It has had more to do with the convenient expedition of central government business. Experience abroad suggests that a wide variety of sizes can deliver important services. Fewer councils and councillors suggests a weakening of democratic capacity, the ability to represent electors' views and offer democratic access. The reorganisation seems to ignore principles of subsidiarity and at the same time fails to deal with the relationship of regions within the European Union. The reorganisation does not address the problems of local democratic process.
- 8.5 Despite this we are disinclined to recommend any further upheaval of boundaries or tiers. Our recommendations can be fitted into the current system. We are, however, concerned to establish a system for subordinate devolution within the larger local authorities.
- 8.6 We believe that poverty and social exclusion should not limit local democracy to the relatively affluent. It is unfortunate that current reorganisation is moving towards larger authorities when every effort should be made to strengthen local democracy at grass roots level.

- 8.7 Mike Geddes' paper (CLD Research Report No 9) draws attention to an increase in poverty in Britain with wider apparent disparity in incomes than in most other parts of Europe. This poverty is associated with social polarisation especially in cities. As a result large sections of the community feel isolated from mainstream politics. Active steps should be taken to redress this and local government is the best vehicle for this. Geddes describes the EU Third Programme to Combat Poverty which included three experimental British projects. These were aimed at the "empowerment" of poor communities so as to bring groups that considered themselves excluded into the local democratic process. We have considered how to extend democratic activity more extensively within our proposed new Council structures.
- 8.8 We are aware of many devolution initiatives by local authorities within the existing law. These include involving citizens in specific consultative forums, or bringing local authorities closer to particular communities through local offices and one-stop-shops. A number of authorities have decentralised their own structures to provide area-based management and delivery of service and political administration.
- 9 The government has recently consulted, but not pronounced on the role of Parish and Town Councils (Dept of Environment 1993). Local authorities which have wanted to secure the representation of particular areas or groups have not had a statutory framework in which to conduct elections. Other representative bodies which might wish to conduct elections do not have access to the local election mechanism. The formal electoral process should be made available for these subordinate elections, to reinforce their legitimacy and secure their probity.
- 8.10 Parish and community councils have limited powers, mainly of an environmental or recreational character. They are directly elected and can raise an income through precept on the district council. Parish and community councils only represent some 30% of the population, but they can represent populations of up to 40,000 people. There is no statutory provision for many urban areas to be parished although a number of metropolitan boroughs inherited a small number of parish councils with the rural areas they absorbed in 1974. About one third of rural England and Wales remains "un-parished".
- 8.11 With the range of populations involved it is not surprising that parish and community councils exhibit a wide variety of enthusiasm and capacity. Nevertheless they are required to hold an annual meeting of the whole parish, they can convene other meetings of all parish electors, and they can arrange to carry out parish polls on particular issues. Most councillors are elected to represent the whole parish and only 19% of are divided into wards. Many elections are uncontested.

8.12 The Commission considers that a number of steps should be taken to encourage all local authorities to develop decentralised administration and even devolved democracy, and to encourage the political representation of communities which desire it. A specified number of electors should be able to petition their local authority, requiring them to conduct consultation on specific proposals to give that area separate representation.

8.13 A number of other legal restrictions on the development within local authorities of decentralised structures should be removed. The "parishing" of the metropolitan and London borough areas should be permitted where communities and those authorities wish that to happen.

8.14 We believe that the annual Democracy Plan proposed in Chapter 5 is a key part of our overall reforms. Local authorities must be constantly aware of the need to move decision-making as close to the citizen as possible.

### **THE REGIONS AND THE CAPITAL**

8.15 Various forms of regional council in England are being discussed, while the future government of London remains controversial. We are not convinced of the democratic value of large regional assemblies for England. Instead we propose that the directly elected Leaders/Mayors should meet and form their own assembly on a regional basis. Such deliberation will be firmly rooted in local communities. This body might have a secretariat that could oversee the work carried out by central government's regional offices.

8.16 We believe that this arrangement should also apply to London, with the elected Mayors of the boroughs forming an indirect London Council to debate and lobby on, for example, metropolitan planning and transport with government representatives. However, the evidence of frequent opinion polls is that the people of London demand the restoration of some form of city-wide representation. We believe that London, being a capital city and not a region, should have a directly elected Mayor of its own, to serve as the "voice of London". This office would have a small staff and would primarily carry out an advocacy and representational role for the capital as a whole. The post would chair the council of elected Mayors. Although without formal executive power the "Mayor of London" would carry immense status and influence in the life of the capital. He or she would meet the primary sense of loss felt by London electors since the abolition of the Greater London Council.

**RECOMMENDATIONS**

- 1 A specified number of electors should be able to petition their local authority requiring them to conduct consultation on specific proposals to give that area separate representation. (*Paragraph 8.12*)
- 2 The formal electoral process should be made available for these subordinate elections, to re-inforce their legitimacy and secure their probity. (*Paragraph 8.9*)
- 3 Legal restrictions on the development within local authorities of decentralised structures should be removed. (*Paragraph 8.13*)
- 4 The law should be changed to permit the “parishing” of the metropolitan and London borough council areas. (*Paragraph 8.13*)
- 5 Regional assemblies would be made up of the elected leaders of local authorities in the area. (*Paragraph 8.15*)
- 6 London should have a directly elected Mayor who would chair a council of Mayors from the London boroughs. (*Paragraph 8.16*)

## CHAPTER NINE

# CONCLUSION

The Commission believe that the practice and habits of democracy at local level are the foundation of our national democracy. The essence of political activity lies in the habit of facing election, of explaining oneself in public, of meeting the argument of opponents, of accepting scrutiny, of negotiation and compromise, of leading by consent, of acknowledging that sound administration requires leaders to take responsibility for their decisions. A lively citizenry takes part in the election of its representatives, questions its leaders, challenges their decisions. The habit of democracy requires those living in a particular community to participate in the institutions by which they are governed and the services by which their lives are enhanced. It is the purpose of democratic reform to encourage these habits.

The Commission has concluded that local democracy must be renewed. Representative local government cannot move into the 21st century with democratic forms inherited from the 19th century. Local authorities must be re-established with a significantly greater degree of autonomy. They must have the functional capacity to lead, represent, and act on behalf of their communities. The democratic processes of local authorities must be changed, involving the electoral process, devolution and participation within the community. There must be a reform of the internal management of authorities, giving citizens new rights between elections.

By the start of the next century local authorities will face altered circumstances. A restructured economy and continued urban poverty will require local authorities to take on a refreshed community leadership and management. They should have the opportunity to build new relationships both inwards with their subordinate neighbourhoods and outwards with each other, with central government and with the institutions of the European Union.

The changes that the Commission has proposed are a comprehensive and coherent reform of local democracy which we believe will help meet this challenge. They are radical and will require the support of national government. A new Local Government Act must be put in place. The centre must then accept clear principles to guide its relationship with local authorities. The political parties must change their habits and local authorities realise the revolution that is demanded of them if their purpose is to be revived. The energy, enthusiasm and zest for participation of citizens are equally necessary to give the changes substance. We are confident this can be achieved.

## SUMMARY OF RECOMMENDATIONS

### CHAPTER 4 – BUILDING AFRESH

- 1 Local authorities should consist of a directly elected Council and a directly elected Leader/Mayor. Both Council and Leader/Mayor should be voted in for a term of three years but the elected Leader may only serve two full terms in office. (*Paragraph 4.3*)
- 2 The Council would be elected on a multi-member ward basis. (*Paragraph 4.5*)
- 3 The specific powers of the Council would be to approve or reject the Executive budget and other proposals; to call referenda; to approve or reject an annual policy plan for the Authority; to approve or reject the annual Democracy Plan for the Authority; to propose individual policies to the Leader/Mayor; scrutinise the Executive and also the work of other local government organisations in its area. (*Paragraph 4.6*)
- 4 The Council would have more members than is currently the case in English and Welsh local authorities. (*Paragraph 4.7*)
- 5 The principal tasks of the Leader/Mayor would thus be to prepare and submit a budget to the Council; to propose an annual policy review to the Council; to respond to Council scrutiny of the Executive; to produce an annual Democracy Plan including decentralisation to parishes, community councils or geographic areas (see Chapter Five); to employ and oversee the officers and Executive in implementing policies agreed with the Council; to exercise the functions of the local authority; to act as the representative head of the authority in all external events and lobbying. (*Paragraph 4.12*)
- 6 Councillors should be required to declare any pecuniary interest in all discussions of local authority business in their party group meetings. (*Paragraph 4.19*)

### CHAPTER 5 – INVOLVING THE CITIZEN

- 1 Local elections for Councils should be conducted on a system of proportional representation using the single transferable vote in multi-member wards. The elected Leader/Mayor should be chosen by a ballot of all of the citizens in a council area using an alternative vote system. (*Paragraphs 5.9 and 5.11*)
- 2 There should be experiments to see if voter turnout could be improved by changing the polling day; bringing the hours of polling for local elections into line with those for general elections; extending the range of venues where polling may take place. (*Paragraphs 5.16 and 5.19*)

- 3 Universal postal balloting should be introduced in local elections. (*Paragraph 5.17*)
- 4 Local authorities should be required to finance a full personal canvass for the electoral register every year and should then maintain a rolling register. (*Paragraph 5.18*)
- 5 Research on systems of electronic voting and counting should be undertaken urgently to produce a comprehensive system available to implement the electoral recommendations of the Commission. (*Paragraph 5.20*)
- 6 The age of candidature for election to a local authority should be lowered to 18. (*Paragraph 5.21*)
- 7 Local authorities should be under a duty to prepare local schemes for the remuneration and support of Councillors to enable them to carry out their functions effectively and without unreasonable financial penalty. There should be no national regulation of such schemes. (*Paragraph 5.23*)
- 8 The rules restricting political activity of employees should be relaxed for all except senior officials. (*Paragraph 5.25*)
- 9 Both the Leader/Mayor and the Council should have powers to conduct a referendum of citizen opinion at any time, such referendum to be advisory and a specified number of citizens should be able to call for a referendum on any matter pertaining to the local authority. Questions to be put to the full electorate may also be inserted onto the ballot paper with a limit on the number allowable. (*Paragraphs 5.30 and 5.33*)
- 10 Local authorities should be under a duty to produce an annual Democracy Plan for decentralisation and citizen involvement. (*Paragraphs 5.37 and 5.38*)
- 11 Local authorities should develop more effective methods of consulting staff in the course of policy formation. The right of staff to complain about organisational failures should be clear. (*Paragraph 5.41*)
- 12 We consider that the recommendations of the Report of the Speaker's Commission on Citizenship (1990) are of particular help in educating young people in the duties of citizenship and propose that citizenship should become part of the core curriculum. (*Paragraph 5.44*)

#### **CHAPTER 6 – A NEW AUTONOMY**

- 1 The government should adopt and ratify the European Charter of Local Self-Government and enact the appropriate declaratory provisions in UK legislation to define the role and status of local government in UK law. (*Paragraph 6.4*)
- 2 Local authorities should have a power of general competence to undertake any

activities they consider to be in the interests of their area unless specifically prohibited by law. (*Paragraph 6.5*)

- 3 The recent reduction of function and independence of local authorities must be reversed. (*Paragraph 6.6*)
- 4 Local authorities should resume responsibility for planning and funding the local education service, including 16-19 education, the placing of grant-maintained schools in the local system and their funding; and direct the organisation of the careers service and local inspection of schools. (*Paragraph 6.13*)
- 5 The Fire Service should remain under local authority control and we believe that the current police authority reforms should be reversed. The Police Service should be locally accountable (but centrally inspected) with its budget a local responsibility. (*Paragraph 6.14*)
- 6 Highway agencies should be restored to local authorities by the Department of Transport and local authorities should retain control of transport and waste disposal undertakings. (*Paragraph 6.15*)
- 7 Local authorities should be given a clear community leadership role with rights to have access to information on, to monitor and to comment on other local government bodies and public agencies operating locally, and with a right to represent the interests of the local community in any manner they think appropriate. (*Paragraph 6.16*)
- 8 There should be a new settlement establishing the financial relationship between central government and local authorities. (*Paragraph 6.22 and 6.23*)
- 9 Government grant should not be hypothecated in any way. It should be used to equalise needs and resources. (*Paragraph 6.25 and 6.22*)
- 10 The dependence of local authorities on central government grant should be reduced; the right to set the "business-rate" should be restored to local authorities. (*Paragraph 6.22 and 6.25*)
- 11 The "capping" of local authority expenditure should be ended but not controls on their borrowing. (*Paragraph 6.24 and 6.26*)
- 12 Local authorities should be able to examine other forms of local taxation. (*Paragraph 6.28*)
- 13 Restrictions on the use of capital receipts and land transactions should be relaxed to allow authorities freedom to invest their own resources in assets for the long-term benefit of their area. (*Paragraph 6.29*)

## CHAPTER 7 – THE QUANGOCRACY

- 1 All health authority members should be directly elected locally, and their executive directors should not be members of the health authority. (*Paragraph 7.7*)
- 2 Members of police authorities, currently appointed by local councils, should be replaced by directly elected representatives who should be in a majority on each police authority. (*Paragraph 7.8*)
- 3 Local authorities should have the right to appoint representatives to TECs but not in a majority. (*Paragraph 7.12*)
- 4 Local authority joint bodies should be reviewed as a duty by the constituent local authorities to identify those which operate on a scale and an area to justify direct election to them, rather than appointment. (*Paragraph 7.13*)
- 5 Local authorities should make explicit the way in which they make appointments to bodies to which they are entitled to do so. (*Paragraph 7.15*)
- 6 The appointment process (for appointed public bodies) should be explicit; there should be an explicit rule as to probity of conduct; there should be open meetings, and access to information; there should be a public audit process. (*Paragraphs 7.15, 7.16 and 7.17*)

## CHAPTER 8 – BOUNDARIES AND TIERS

- 1 A specified number of electors should be able to petition their local authority requiring them to conduct consultation on specific proposals to give that area separate representation. (*Paragraph 8.12*)
- 2 The formal electoral process should be made available for these subordinate elections, to re-inforce their legitimacy and secure their probity. (*Paragraph 8.9*)
- 3 Legal restrictions on the development within local authorities of decentralised structures should be removed. (*Paragraph 8.13*)
- 4 The law should be changed to permit the “parishing” of the metropolitan and London borough council areas. (*Paragraph 8.13*)
- 5 Regional assemblies would be made up of the elected leaders of local authorities in the area. (*Paragraph 8.15*)
- 6 London should have a directly elected Mayor who would chair a council of Mayors from the London boroughs. (*Paragraph 8.16*)

APPENDIX I

# THE COMMISSION'S OWN RESEARCH

*Community Identity and Participation in Local Democracy*

Colin Rallings, Michael Temple & Michael Thrasher (CLD Report No 1 May 1994)

*Local Democracy: The Terms of the Debate*

Anne Phillips (CLD Report No 2 June 1994)

*The Constitutional Status of Local Government*

Martin Loughlin (CLD Report No 3 July 1994)

*The Role and Purpose of Local Government*

Gerry Stoker (CLD Report No 4 August 1994)

*Attitudes to Local Government in Westminster and Whitehall*

George Jones & Tony Travers (CLD Report No 5 September 1994)

*Local Democracy and the European Union: The Impact of Europeanisation on Local Governance*

John Benington (CLD Report No 6 October 1994)

*The Public Service Ethos in Local Government*

Lawrence Pratchett & Melvin Wingsfield (CLD Report No 7 with ICSA November 1994)

*Submissions to the Commission on Aspects of Local Democracy*

Janie Percy-Smith (CLD Report No 8 December 1994)

*Poverty, Excluded Communities and Local Democracy*

Mike Geddes (CLD Report No 9 January 1995)

*The Quango State: An Alternative Approach*

John Stewart, Alan Greer & Paul Hoggett (CLD Report No 10 February 1995)

*The Role of Political Parties in Local Democracy*

Chris Game & Steve Leach (CLD Report No 11 February 1995)

*Current Issues in Local Government Finance*

Ian Sanderson (CLD Report No 12 March 1995)

*The Integrated Regional Offices and the Single Regeneration Budget*

Brian W Hogwood (CLD Report No 13 April 1995)

*Digital Democracy: Information and Communication Technologies in Local Politics*

Janie Percy-Smith (CLD Report No 14 May 1995)

*Referenda and Citizens' Ballots*

Des McNulty (CLD Report No 15 July 1995)

*General Competence for Local Authorities in Britain in the Context of European Experiments*

Hilary Kitchin (CLD Report No 16 August 1995)

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The Democratic Audit	David Beetham

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Attitudes to Local Government - A Survey of Electors	Alice Bloch & Peter John
Coming to Terms with Change? The Local Government Councillor in 1993	Ken Young & Nirmala Rao
Community Identity and Participation in Local Democracy	Colin Rallings, Michael Temple & Michael Thrasher
Community Leadership and Representation: Unlocking the Potential	Report of the Working Party on the Internal Management of Local Authorities in England
Councillor Recruitment and Turnover: An approaching precipice	Chris Game, Steve Leach with Geoff Williams
Current Issues in Local Government Finance	Ian Sanderson
Ego Trip: Extra-governmental organisations in the UK and their accountability	Stuart Weir & Wendy Hall
Electoral Alternative to Capping	Peter Cordie & Philip Walker
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Local Democracy and the European Union: The impact of Europeanisation on local governance	John Benington

<b>Publisher</b>	<b>Date</b>
CLD Ltd (Publication No 2)	1994
Charter 88 Trust	1993
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Paper received by the Commission	1994
CIPFA	1994
ACC	1994
CLD Ltd (Publication No 14)	1995
Joseph Rowntree Foundation	1990
CIPFA	1994
Paper received by the Commission	1994
History Workshop	1993
Joseph Rowntree Foundation	1991
Joseph Rowntree Foundation	1994
European Policy Forum	1993
DEMOS Quarterly Issue No 3	1994
Paper received by the Commission	1994
ESRC	1994
ESRC	1994
Joseph Rowntree Foundation	1993

<b>Title</b>	<b>Author</b>
Local Government in Wales	George Boyne, Paul Griffiths, Alan Lawton & Jennifer Law
Local Government - Its Role & Function	Steve Leach & Murray Stewart with Howard Davies & Christine Lambert
Managing Change	Nirmala Rao
Managing the Fragmented Authority	Alan Alexander with Kevin Orr
MORI Polls	
Polls Apart: Disabled People and the 1992 General Election	SCOPE
Report of the Committee on the Management of Local Government (Maud Report)	
Report of the Royal Commission on Local Government in England (The Redcliffe-Maud Commission)	
Representation of the Peoples Act 1983	CHAR
Rethinking Consumerism in Public Services	Robin Hambleton & Paul Hoggett
Securing Effective Public Accountability in the NHS	NAHAT
Single Purpose Authorities	Harold Wolman
Submissions to the Commission on Aspects of Local Democracy	Janie Percy-Smith
The Community Charge in England	Alice Bloch
The Community Charge in Scotland	Peter John
The Future of Professionalism in Local Government - The Belgrave Papers No. 10	Gerry Stoker, John Gyford, Howard Elcock, Aiden Rose, Tony Travers, John Stewart
The Government of London	Tony Travers, George Jones, Michael Hebbert, June Burnham

<b>Publisher</b>	<b>Date</b>
Joseph Rowntree Foundation	1991
Joseph Rowntree Foundation	1992
Joseph Rowntree Foundation	1993
LGMB	1993
Paper received by the Commission	1993
HMSO	1967
HMSO	1969
Paper received by the Commission	1994
Paper received by the Commission	1994
Paper received by the Commission	1994
Paper received by the Commission	1994
CLD Ltd (Publication No 8)	1994
Joseph Rowntree Foundation	1990
Joseph Rowntree Foundation	1991
LGMB	1993
Joseph Rowntree Foundation	1991

## **APPENDIX II**

<b>Title</b>	<b>Author</b>
The impact of population size on local authority costs and effectiveness	Tony Travers, George Jones & June Burnham
The Integrated Regional Offices & the Single Regeneration Budget	Brian Hogwood
The New Local Governance	Michael Clarke
The Politics of Local Government since Widdicombe	Ken Young & Mary Davies
The Present Proposals Affecting Local Democracy in Wales	Sir Goronwy Daniel
The Report of the Committee of Inquiry into the Conduct of Local Authority Business Widdicombe Committee Research Papers I-IV	
The Report of the Royal Commission on Local Government in Scotland (the Wheatley Commission)	
The Role and Purpose of Local Government	Gerry Stoker
What shall we do about Local Government	Sir Anthony Jay
Young People: Changing the Face of British Politics	British Youth Council

<b>Publisher</b>	<b>Date</b>
Joseph Rowntree Foundation	1993
CLD Ltd (Publication No 13)	1995
European Policy Forum	1994
Joseph Rowntree Foundation	1990
Unpublished discussion paper	1994
HMSO	1988
HMSO	1969
CLD Ltd ( Publication No 4)	1994
Paper presented to the Institute of Economic Affairs and received by the Commission	1994
Paper received by the Commission	1993

## APPENDIX III

**LIST OF SUBMISSIONS TO THE COMMISSION****a. LOCAL AUTHORITIES RESPONDING TO THE COMMISSION**

<b>Authority</b>	<b>Persons submitting</b>
Alnwick District Council	Members
Arun District Council	Members (and documents on community leadership and Local Government Review Submission)
Babergh District Council	Chief Executive
Bedfordshire County Council	Ombudsperson
Birmingham City Council	Councillor Sir Richard Knowles
Boston Borough Council	Assistant Chief Executive
Bournemouth Borough Council	Leader of the Council
Brighton Borough Council	Assistant Chief Executive (and committee paper on monitoring local quangos)
Cambridgeshire County Council	Leaders of Labour, Liberal Democrat and Conservative groups
Chesterfield Borough Council	Members (and European Charter of Local Self-Government)
Cotswold District Council	Chief Executive
Craven District Council	Council resolution on <i>The Growth of Government by Appointment</i> , LGMB
Derbyshire County Council	Committee Reports
Eastbourne Borough Council	Head of Democratic Services
Epsom and Ewell Borough Council	Assistant Chief Executive (and various documents)
Fareham Borough Council	Legal and Administration Services Manager (and Committee Report on non-elected bodies)
Haringey Council	Leader of the Council
Harrow Council	Head of Law and Administration
Hertfordshire County Council	Leader of the Liberal Democrat Group
Kent County Council	County Planning Officer

<b>Authority</b>	<b>Persons submitting</b>
Royal Borough of Kingston upon Thames	Leader of the Council (and G Lishman <i>The Theory and Practice of Community Politics</i> , 1980, ASLDB)
Leicester City Council	Personal response from Acting Head of the Policy Unit
Knowsley Metropolitan Borough Council	Senior Executive Officer
Lincolnshire County Council	Director of Corporate Services
London Borough of Redbridge	Chief Executive (and committee reports)
Mid-Beds District Council	Personal Response from Chief Executive
Newark and Sherwood District Council	Leader of the Council
North Warwickshire Borough Council	Members
Nottingham City Council	Chief Executive (and article on local quangos)
Nottinghamshire County Council	Members
Portsmouth City Council	Members
Reading Borough Council	Members
Rother District Council	Leader, Liberal Democrats
St Edmundsbury Borough Council	Personal response from Assistant Chief Executive (and Henry Tam, <i>Citizenship Development Towards an Organisational Model</i> , LGMB)
Sandwell Metropolitan Borough Council	Members (and Sandwell MBC <i>Investing in Community</i> , 1994)
Shropshire County Council	Personal response from Chief Executive
South Somerset District Council	Members
Surrey County Council	Assistant Chief Executive (and Surrey County Council, <i>Options for Local Government in Surrey</i> )
Taunton Deane Borough Council	Leader of the Council
Thamesdown Borough Council	Leader of the Council
Wakefield Metropolitan District Council	Personal response from Chief Executive
West Wiltshire District Council	Members
Wokingham District Council	Members
Worthing Borough Council	Chief Executive

**APPENDIX III**

**b. ORGANISATIONS AND INDIVIDUALS RESPONDING TO THE COMMISSION**

**List of documents sent with/in lieu of submissions**

Association of Metropolitan Authorities (1994)	Policy and Financial Prospects 1994/5. AMA
Association of Local Authorities (1991)	Principles of Local Government
Davis H and Stewart J (undated)	The Growth of Government by Appointment: Implications for Local Democracy. Local Government Management Board
Working Party on the Internal Management of Local Authorities in England (1993)	Community Leadership and Representation: Unlocking the Potential. HMSO
Poole KP and Keith-Lucas B (1994)	Parish Government 1894-1994 National Association of Local Councils
Daniel Sir G (undated)	The Structure and Management of Local Government in Wales
Daniel Sir G (undated)	Reorganisation of Government in Wales
Coopers and Lybrand Deloitte (1991)	The Constitutional Role of Local Government. Association of County Councils
Local Government Management Board (1994)	Publications Catalogue 1994
Local Government Commission for England (1993)	Reviewing Local Government in the English Shires. HMSO
The Labour Party (1994)	Health 2000. The Labour Party
The Association of Councillors (undated)	Information Pack on the Association of Councillors
Centre for Local Economic Strategies (1993)	Annual Report and Accounts
Association of Chief Police Officers (1993)	Police Reform: Response by ACPO
Association of Chief Police Officers (1994)	Police and Magistrates Courts Bill: The ACPO Position

**List of documents sent with/in lieu of submissions**

National Association of Health Authorities and Trusts (1994)	Securing Effective Public Accountability in the NHS
Audit Commission	Passing the Bucks
Audit Commission	We Can't Go On Meeting Like This
Conservative Party (1994)	A Decentralising Government
National Association of Councils (1992)	The Role of Parish and Town Councils in Local England
Institute of Directors (1991)	'The Role, Structure and Financing of Local Government'
British Youth Council (undated)	Information Pack
The Library Association (1994)	Local Government Reorganisation in England
The Spastics Society (1992)	Polls Apart
Law Centres Federation (1993)	Delivering Legal Services Locally
Liberal Democrats (1993)	Here We Stand: Proposals for Modernising Britain's Democracy
Liberal Democrats (1991)	Shaping Tomorrow's Local Democracy

**OTHER ORGANISATIONS**

Association of Chief Police Officers
Association of Councillors
Association of County Councils
Association of District Labour Organisations
Association of District Authorities
Association of District Secretaries
Association of Metropolitan Authorities
Audit Commission
BOCDP
British Association of Social Workers
British Council of Organisations of Disabled People
British Youth Council

## OTHER ORGANISATIONS

CBI

Centre for Local Economic Strategies

Commission for Racial Equality

Conservative Party

Convention of Scottish Local Authorities

Electoral Reform Society

English Regional Arts Board

Federated Union of Managerial and Professional Officers (MPO)

Housing Corporation

The Institute for Citizenship Studies

Institute of Directors

Institute of Education

Labour Party

Law Centres Federation

Law Society, Local Government Group

Leeds Development Corporation

Liberal Democratic Party

The Library Association

Local Government Commission

Local Government Management Board

NAHAT

National Association of Local Councils

National Council for Voluntary Organisations (NCVO)

National Institute for Social Work

Plaid Cymru

Policy Studies Institute

Royal Society of Arts

Salvation Army Research and Development Office

Scottish National Party

Spastics Society

Society of Chief Personnel Officers

Society of County Secretaries

South Humberside Charter 88

Townswomen's Guilds

**INDIVIDUALS**

Professor Sam Aaronovitch

David Blunkett, MP

Sir Charles Carter

Dr George Cooke

Sir Geronwy Daniel

Erica Dyson

Chris Farrow

Lawrence Hansen

Elizabeth Hodder

Sir Trevor Hughes

Sir Antony Jay

Professor Maurice Lessof

Serge Lauric

Robert Maxwell

David Morgan

Sir Patrick Nairne

David Rendel, MP

Sir Robin Stott

Richard Tettenbarn

**TRAINING AND ENTERPRISE COUNCILS**

Avon TEC

Cambs TEC

CENTEC

CILNTec

Devon and Cornwall TEC

Gwent TEC

Hampshire TEC

Leeds TEC

London East TEC

Manchester TEC

North London TEC

North West London TEC

South Thames TEC

Surrey TEC

Tyne and Wear Development Corporation

West London TEC

## APPENDIX IV

**ALTERNATIVE ELECTORAL SYSTEMS -  
A TECHNICAL DESCRIPTION**

The Commission is proposing two major changes to the electoral system for local authorities. Firstly we suggest that councillors should be elected by single transferable vote system of proportional representation. Secondly we wish to see the Leader/Mayor elected by the alternative vote system. This appendix describes how these two systems would work.

**THE SINGLE TRANSFERABLE VOTE**

The Single Transferable Vote form of proportional representation allows the voter to exercise the widest possible degree of choice from among the candidates.

Instead of using an "X" the electors vote by numbering the candidates in the order of their choice. By placing a "1" beside the candidate s/he most wants to see elected, a voter is instructing the Returning Officer to give the vote to that candidate.

If the first preference cannot be used, either because a candidate already has enough votes without it, or has so few votes as to have no hope of election, it is transferred to the candidate the voter has numbered "2". If this candidate is already elected, or has no hope of election then the vote is transferred to candidate "3" and so on until it reaches a candidate it can help. To be elected a candidate requires a quota of the votes cast. This is calculated by dividing the total valid vote by one more place than the number of places to be filled. Thus in a four member ward, the quota is one more vote than one fifth and in a five member ward, one more vote than one sixth of the total valid vote. This represents the smallest number of votes required for election.

The surplus votes of candidates who receive more than the quota are transferred to the next available lower preference. After the surplus votes have been transferred, the candidate with fewest votes is excluded and the votes transferred as instructed by the voter to candidates who still need votes to be elected. The process of transferring surplus votes from elected candidates and excluding candidates who have no hope of election is continued until all seats have been filled.

Under the STV system, the voters are able to support the party of their choice, but can discriminate between the different candidates of that political party and then go on to other candidates if they wish. In practice most voters will place the candidates of their own political party in preferential order first. This allows the proportional

representation of political parties the degree of accuracy depending upon the number of seats per ward. This system operates in Northern Ireland where each District Council electoral district (ward) elects from 5-7 members. Under the STV system all elected members are directly accountable to voters.

### **BY-ELECTIONS AND CASUAL VACANCIES.**

Under the Single Transferable Vote system, there are two ways of filling casual vacancies. The first method is to store the ballot papers securely and to re-count them when a casual vacancy arises leaving aside any preferences for the vacating candidate. The second method is to hold a by-election over the electoral area which had elected the vacating member. In Northern Ireland and the Irish Republic casual vacancies are filled by holding a by-election.

### **THE ALTERNATIVE VOTE**

The Alternative Vote is used in Australia for electors to the House of Representatives and some state legislatures. Applied to the Leader/Mayor post this system would of necessity produce a non-proportional outcome. But it is important to ensure that whoever is elected has the demonstrable support of as many voters as possible.

Voters would not vote by using an "X" but instead by placing the candidates in the order of their choice, marking "1" by the name of the candidate they most want to see elected, a "2" beside the second choice and so on . When the votes are counted, any candidate receiving half or more than half the number of votes polled is elected. Thus if the result was:

Candidate	A	1,518 votes
	B	740 "
	C	324 "

2,582 votes have been cast. Candidate A has polled more than half of these and so is elected.

But what happens if no one candidate receives more than 50% of the votes cast? Then a system of preferences and transfers is introduced. If the result was to be:

Candidate	A	1,218 votes
	B	1,040 "
	C	324 "

Here no candidate has gained more than 50% of the poll. Candidate C is therefore eliminated and the 324 first preference votes are examined to see which of the other two candidates were marked as second choices on these ballot forms.

This might lead to the following result:

Candidate	Votes		Votes
A	1,218	+124	1,342
B	1,040	+200	1,240
C	324	- 324	-

124 people who originally voted for C showed a second preference for A and 200 a second preference for B. These are added to the original votes which gives A 1,342 votes. Since this is more than half of the votes cast A is elected.

Had there been more candidates the process might have continued with further exclusions until one candidate had more votes than those for all other candidates combined.

The advantages of the Alternative Vote are that all elected members are supported by an overall majority, and each person elected is accountable to those who elected them. Voters are able to express their real views about the candidates without voting tactically to defeat their least preferred candidate.

APPENDIX V

**EXTRACT FROM THE RECOMMENDATIONS OF  
“ENCOURAGING CITIZENSHIP: REPORT OF THE  
SPEAKER’S COMMISSION ON CITIZENSHIP”  
(HMSO) 1990**

**LEARNING TO BE A CITIZEN**

- 1 The Commission recommends that the study and experience of citizenship should be a part of every young person's education from the earliest years of schooling and continuing into the post-school years within further and higher education and the youth service, whether in state or private sector schools, and irrespective of the course of study being followed.
- 2 The Commission recommends, as does the Council of Europe, that the main international charters and conventions on human rights to which the UK is signatory should provide the reference points within the classroom for the study of citizenship.
- 3 The Commission recommends that every school governing body should request that a strategy should be developed and monitored for incorporating citizenship studies across the curriculum; and should consider a progress report regularly.
- 4 The Commission recommends that evidence of activities undertaken as part of learning citizenship skills across the curriculum should be included in a student's Record of Achievement.
- 5 The Commission recommends that schools and colleges should use the material in this report for curriculum and assessment purposes and that each of these institutions should hold a copy of the full report.
- 6 The Commission recommends that the study and promotion of citizenship in schools should be continued at Leicester University in partnership with Northamptonshire and Leicestershire County Councils.
- 7 The Commission recommends that institutions in the higher education sector should formulate explicit selection policies and consider how most appropriately to take into account evidence of a candidate's citizenship activities.
- 8 The Commission recommends that each local education authority reviews the range and type of support available for community work and citizenship activities, particularly within the youth service and adult education.
- 9 The Commission recommends that the judiciary, civil service, teachers, doctors and nurses, local government officers, the police and the armed forces should have specific training on the entitlements and duties of citizens and the corresponding obligations of public institutions as set out in documents such as the European Convention.

APPENDIX VI

# EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT

## PREAMBLE

The member states of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that one of the methods by which this aim is to be achieved is through agreements in the administrative field;

Considering that the local authorities are one of the main foundations of any democratic regime;

Considering that the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe;

Convinced that it is at local level that this right can be most directly exercised;

Convinced that the existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen;

Aware that the safeguarding and reinforcement of local self-government in the different European countries is an important contribution to the construction of a Europe based on the principles of democracy and the decentralisation of power;

Asserting that this entails the existence of local authorities endowed with democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsible are exercised and the resources required for their fulfilment,

Have agreed as follows:

## ARTICLE 1

The Parties undertake to consider themselves bound by the following articles in the manner and to the extent prescribed in Article 12 of this Charter.

## PART I

### ARTICLE 2 - *Constitutional and legal foundation for local self-government*

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

### ARTICLE 3 - *Concept of local self-government*

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.

2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referenda or any other form of direct citizen participation where it is permitted by statute.

**ARTICLE 4 - *Scope of local self-government***

1. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
2. Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
3. Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
4. Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
5. Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
6. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

**ARTICLE 5 - *Protection of local authority boundaries***

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

**ARTICLE 6 - *Appropriate administrative structures and resources for the tasks of local authorities***

1. Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
2. The conditions of services of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

**ARTICLE 7 - *Conditions under which responsibilities at local level are exercised***

1. The conditions of office of local elected representatives shall provide for free exercise of their functions.
2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local

elective office shall be determined by statute or fundamental legal principles.

**ARTICLE 8 - *Administrative supervision of local authorities' activities***

1. Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
2. Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
3. Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

**ARTICLE 9 - *Financial resources of local authorities***

1. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
2. Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
3. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
4. The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
5. The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

**ARTICLE 10 - *Local authorities' right to associate***

1. Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
2. The entitlement of local authorities to belong to an association for protection and promotion of their common interests and to belong to an international association of local authorities shall

be recognised in each State.

3. Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

**ARTICLE 11 - *Legal protection of local self-government***

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

**PART II  
MISCELLANEOUS PROVISIONS**

**ARTICLE 12 - *Undertakings***

1. Each Party undertakes to consider itself bound by at least twenty paragraphs of Part I of the Charter, at least ten of which shall be selected from among the following paragraphs:

Article 2,  
Article 3, paragraphs 1 and 2,  
Article 4, paragraphs 1, 2 and 4,  
Article 5,  
Article 7, paragraph 1,  
Article 8, paragraph 2,  
Article 9, paragraphs 1, 2 and 3,  
Article 10, paragraph 1,  
Article 11.

2. Each Contracting State, when depositing its instrument of ratification, acceptance or approval, shall notify the Secretary General of the Council of Europe of the paragraphs selected in accordance with the provisions of paragraph 1 of this Article.

3. Any Party may, at any later time, notify to the Secretary General that it considers itself bound by any paragraphs of this Charter which it has not already accepted under the terms of paragraph 1 of this Article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval of the Party so notifying, and shall have the same effect as from the first day of the month following the expiration of a period of three months after the date of the receipt of the notification by the Secretary General.

**ARTICLE 13 - *Authorities to which the Charter applies***

The principles of local self-government contained in the present Charter apply to all the categories of local authorities existing within the territory of the Party. However, each Party may, when depositing its instrument of ratification, acceptance or approval, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter or which it intends to exclude from its scope. It may also include further categories of local or regional authorities within the scope of the Charter by subsequent notification to the Secretary General of the Council of Europe.

**ARTICLE 14 - *Provision of information***

Each Party shall forward to the Secretary General of the Council of Europe all relevant information concerning legislative provisions and other measures taken by it for the purposes of complying with the terms of this Charter.

**PART III**

**ARTICLE 15 - *Signature, ratification and entry into force***

1. This Charter shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. This Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date on which four member States of the Council of Europe have expressed their consent to be bound by the Charter in accordance with the provisions of the preceding paragraph.
3. In respect of any member State which subsequently expresses its consent to be bound by it, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

**ARTICLE 16 - *Territorial clause***

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Charter shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Charter to any other territory specified in the declaration. In respect of such territory the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

**ARTICLE 17 - *Denunciation***

1. Any Party may denounce this Charter at any time after the expiration of a period of five years from the date on which the Charter entered into force for it. Six months' notice shall be given to the Secretary General of the Council of Europe. Such denunciation shall not affect the validity of the Charter in respect of the other Parties provided that at all times there are not less than four such Parties.
2. Any Party may, in accordance with the provisions set out in the preceding paragraph, denounce any paragraph of Part I of the Charter accepted by it provided that the Party remains bound by the number and type of paragraphs stipulated in Article 12, paragraph 1. Any Party which, upon denouncing a paragraph, no longer meets the requirements of Article 12, paragraph 1, shall be considered as also having denounced the Charter itself.

**ARTICLE 18 - *Notifications***

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. any date of entry into force of this Charter in accordance with Article 15;
- d. any notification received in application of the provisions of Article 12, paragraphs 2 and 3;
- e. any notification received in application of the provisions of Article 13;
- f. any other act, notification or communication relating to this Charter.

In witness whereof the undersigned,  
being duly authorised thereto, have  
signed this Charter.

Done at Strasbourg, this 15th day of October 1985, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

For the Government of the Republic of Austria:

**Hans G KNITEL**

For the Government of the Kingdom of Belgium:

**Jan R VANDEN BLOOCK**

For the Government of the Republic of Cyprus:

For the Government of the Kingdom of Denmark:

**Erling V QUAADE**

En foi de quoi, les soussignes, dument autorisés à cet effet, ont signé la présente Charte.

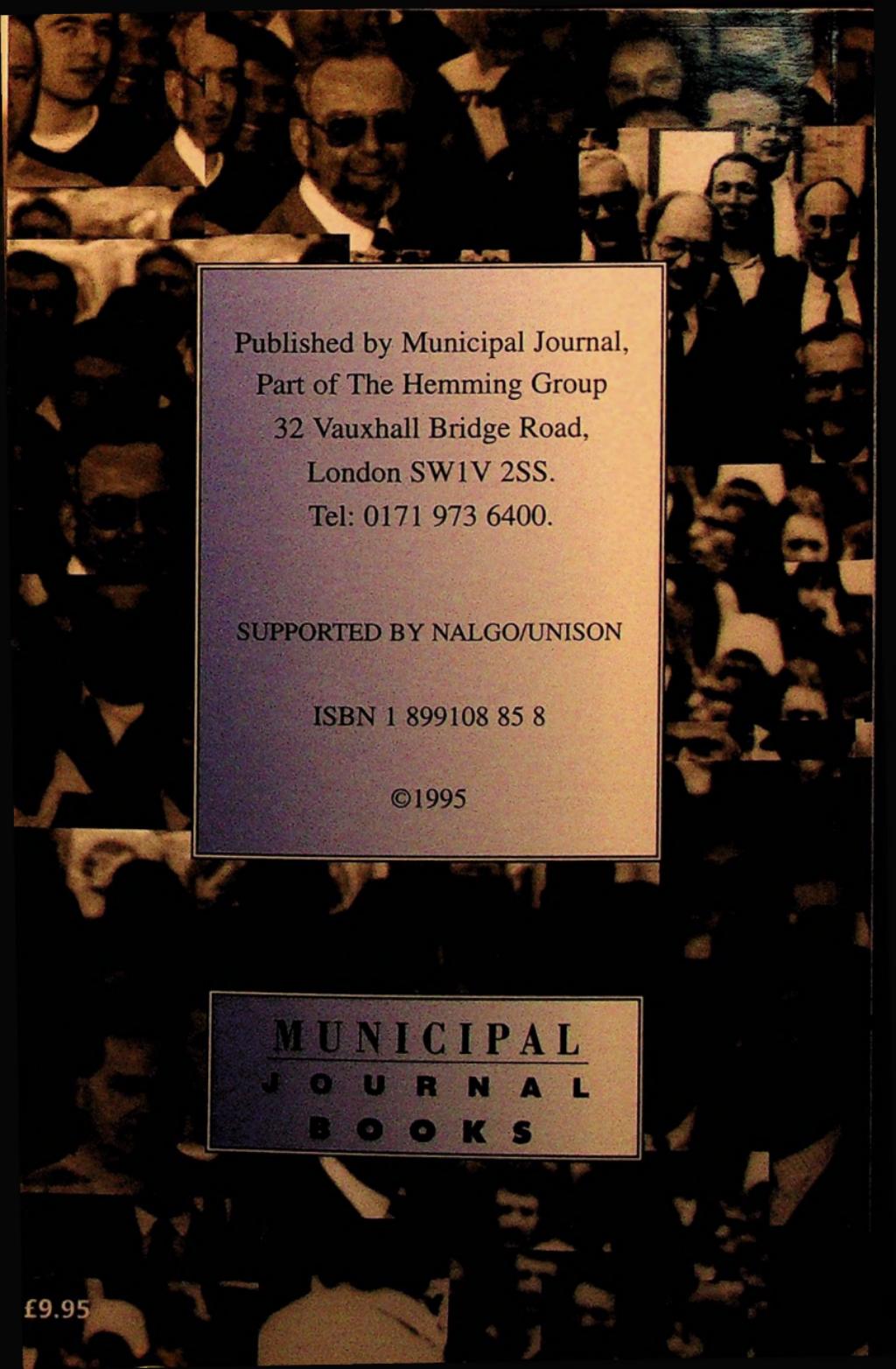
Fait à Strasbourg, le 15 Octobre 1985, en français et en anglais, les deux textes faisant également foi, en un seul exemplaire qui sera déposé dans les archives du Conseil de l'Europe. Le Secrétaire Général du Conseil de l'Europe en communiquera copie certifiée à chacun des Etats membres du Conseil de l'Europe.

Pour le Gouvernement de la République d'Autriche:

Pour le Gouvernement du Royaume de Belgique:

Pour le Gouvernement de la République de Chypre:

Pour le Gouvernement du Royaume de Danemark:



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